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SCHUSTER, PETER  
MCCARTHY, ELIZABETH

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DR. JOHN MARSHALL NICOLS

PETER SCHUSTER

MRS. ELIZABETH MCCARTHY

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002049

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

.....	.	
STATE OF LOUISIANA	.	NO. 198-059
VERSUS	.	1426 (30)
CLAY L. SHAW	.	SECTION "C"
.....	.	

EXCERPT OF  
PROCEEDINGS IN OPEN COURT ON  
FEBRUARY 28, 1969,  
~~JAMES ALCOCK'S ARGUMENT~~

*Dr Nichols (again), Peter Schuster & Elizabeth Mc Carthy*

*And  
rather  
represented by  
w/...*

B E F O R E : HONORABLE EDWARD A. HAGGERTY, JR.

JUDGE, SECTION "C"

RELEASED PER P.L. 102-526 (JFK ACT)

NARA *VSw* DATE *10/18/83*

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I N D E X

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I N R E B U T T A L

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1 . . . . Pursuant to the adjournment  
 2 of Thursday, February 27, 1969, the  
 3 Proceedings herein were resumed at  
 4 10:00 o'clock a.m. on Friday,  
 5 February 28, 1969, appearances being  
 6 the same as heretofore noted in the  
 7 record . . . .

8 THE COURT:

9 Are the State and the Defense ready?

10 MR. ALFORD:

11 The State is ready, Your Honor.

12 MR. DYMOND:

13 We are ready, Your Honor.

14 THE COURT:

15 Call your next witness.

16 MR. ALFORD:

17 The State at this time calls

18 Dr. John Nichols.

19 ...oOo...

20 DR. JOHN MARSHALL NICHOLS,

21 a witness called for and on behalf of the State,  
 22 having been first duly sworn, was examined and  
 23 testified as follows, on Rebuttal:

24 DIRECT EXAMINATION

25 BY MR. ALFORD:

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1 Q Please state your name for the record.

2 A Dr. John Nichols.

3 THE COURT:

4 Mr. Alford, are you submitting the witness  
5 as an expert?

6 MR. ALFORD:

7 Yes, Your Honor. He has been previously --

8 THE COURT:

9 I am aware of that. I just want to  
10 clarify. Mr. Dymond, do you wish to  
11 traverse the witness as an expert?

12 MR. DYMOND:

13 I don't think that is necessary again,  
14 Judge.

15 THE COURT:

16 I didn't think so either. I just wanted  
17 the record to show I have previously  
18 ruled that he was an expert.

19 MR. DYMOND:

20 Yes, I know you have, Judge. I don't see  
21 any reason to go through the  
22 formality.

23 THE COURT:

24 Let it be noted in the record that I again  
25 rule the Doctor is an expert in the

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field of pathology and forensic pathology and can give his opinion in those particular fields.

All right, you may proceed.

BY MR. ALFORD:

Q Your name is Dr. John Marshall Nichols? Is that correct?

A That is correct, sir.

Q Dr. Nichols, are you familiar with the human anatomy?

A Reasonably so, sir.

Q Are you familiar with the human skeletal structure?

A Reasonably so, sir.

Q More specifically, Doctor, are you familiar with the anatomy, with the human anatomy in the region of the human neck?

A Yes, sir.

Q Doctor, at this time I wish to give you the following hypothet, and at the conclusion of my giving you this hypothet, I will ask you several questions:

Assume that a man was struck by a rifle bullet which impacts at a location in his neck, said location being

1 approximately five inches down from the 5  
2 right mastoid process and approximately  
3 five inches from the right acromion and  
4 approximately two inches from the mid  
5 line; that the resulting wound measures  
6 approximately seven millimeters by four  
7 millimeters; that this pellet then follows  
8 a path which causes it to exit at a point  
9 in the frontal neck region at the  
10 approximate location of the tie knot, and  
11 in making this exit the shirt is torn  
12 around the collar button and there is a  
13 nick in the tie on the left side of the  
14 knot; that this wound measures approximate-  
15 ly five millimeters in diameter; and,  
16 finally, that in making the alleged path  
17 no bones are fractured, and further that  
18 this lack of fractures is verified by  
19 X-rays of the region of the neck.

20 Now, first of all, Doctor, is there  
21 anything inconsistent in the facts which  
22 I have given you in this hypothetical  
23 situation?

24 A You have mentioned a measurement two inches  
25 from the mid line. I don't understand



1 that, sir. Is that in the front or in the 6  
2 back?

3 Q This is in the back portion.

4 A No, sir. The proposition you have stated is  
5 impossible, sir.

6 Q Well, disregarding Doctor -- or let me ask you  
7 this: Why are these facts impossible?

8 A Because if the bullet entered two inches from  
9 the mid line in the back, it would  
10 absolutely be required to strike one of  
11 the cervical vertebrae, sir.

12 Q Now disregarding the fact of the wound being  
13 two inches from the mid line, Doctor, in  
14 your expert opinion do the facts which I  
15 have stated enable you to determine the  
16 minimum lateral or right-to-left angle at  
17 which a bullet would have to pass in order  
18 to make these wounds which I have  
19 described?

20 A If the bullet comes out in the front in the  
21 mid line, it is quite easy to calculate  
22 the minimum lateral angle that it had to  
23 go in and missed a bone, yes.

24 Q Now, Doctor, considering this right-to-left  
25 angle, could a bullet which entered and

1 exited at the point which I have described, 7  
2 have been fired from the northeast window  
3 of the sixth floor of the Texas School  
4 Book Depository into President Kennedy's  
5 neck on November 22, 1963?

6 MR. DYMOND:

7 I object to that, if the Court please.

8 This witness is not qualified to  
9 testify to that, he is not.

10 MR. ALFORD:

11 Your Honor, I haven't completed the  
12 question.

13 THE COURT:

14 Wait, Mr. Alford, let me hear his objec-  
15 tion, please.

16 MR. DYMOND:

17 He is not qualified to testify to that,  
18 it is outside the field of his  
19 specialty in which he has been  
20 qualified as an expert.

21 THE COURT:

22 I agree with you, Mr. Dymond. I sustain  
23 the objection.

24 MR. ALFORD:

25 All right.

1 BY MR. ALFORD:

2 Q Dr. Nichols, what would be the minimum  
3 right-to-left angle at which the bullet  
4 causing the wound I have described would  
5 have had to enter the body, and why is  
6 this so, sir?

7 A 28 degrees, sir, the bullet had to be fired at  
8 a minimum of 28 degrees or greater.

9 Q And why is this, Doctor?

10 A Because if the angle is less than that, the  
11 cervical vertebra will be fractured.

12 Q (Exhibiting document to witness) Doctor, I now  
13 show you what for purposes of identifica-  
14 tion I have marked as "S-78." Now I would  
15 ask you to please inspect this and tell me  
16 what it represents, if you know.

17 A This represents a schematic diagram of the  
18 human neck at about the level of C,  
19 cervical C-6 or C-7 at which point the  
20 bullet is alleged to have emerged from  
21 President Kennedy's neck. The drawing was  
22 done at my personal request and under  
23 my personal direction and supervision in  
24 the summer of 1967, and it accurately  
25 depicts the minimum lateral angle that a

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bullet could go through the neck without striking bone.

Q (Exhibiting document to witness) Now, Doctor, I show you what for purposes of identification I will mark as "S-79," and ask you whether or not you can identify this.

A This is a faithful photographic reproduction of the sketch.

Q Is there anything included in the sketch which is not included in the photograph?

A The total qualities, the black and white rendition of some portions are not completely similar.

Q Now, Doctor, have you had occasion to view and examine the Zapruder film, sir?

A Yes, sir, I have.

Q And do you have an expert opinion as to the approximate location in reference to the Zapruder film, in which President Kennedy was first struck by a bullet?

MR. DYMOND:

Object, if the Court please. This is outside the field of his expertise.

MR. ALFORD:

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May it please the Court, --

THE COURT:

How in the world, Mr. Alford, can you  
have Dr. Nichols tell us what bullet  
hit the President.

MR. ALFORD:

I will strike the word "bullet." I will  
rephrase the question.

BY MR. ALFORD:

Q Dr. Nichols, from your viewing of the Zapruder  
film, have you been able to determine at  
what point the President appears to  
react to some stimulus?

A He appears to react at frame 200.

MR. DYMOND:

I object to that, if the Court please.

MR. ALFORD:

On what ground?

MR. DYMOND:

Once again that is outside --

MR. ALFORD:

Your Honor, --

THE COURT:

Let me get something straight. When he  
makes an objection, will you please

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1 keep quiet until I hear the  
2 objection, because when you are  
3 talking I can't hear his objection.  
4 Will you please do that?

11

5 MR. ALFORD:

6 Yes, sir.

7 THE COURT:

8 Mr. Dymond, I will be glad to hear you.

9 MR. DYMOND:

10 Your Honor, again I object on the ground  
11 that this is outside the scope of  
12 this witness' expertise. He has not  
13 been qualified in the field of  
14 photography, and therefore --

15 THE COURT:

16 Mr. Dymond, this was covered in the  
17 original testimony of Dr. Nichols, as  
18 I recall it, and you made the same  
19 objection, that he was not qualified  
20 in the field of photography, and I  
21 overruled you then.

22 MR. DYMOND:

23 If the Court please, we would like to  
24 make an additional objection then  
25 that this is repetitious and has no

place in re-direct examination.

THE COURT:

What are you rebutting there, Mr. Alford?

MR. ALFORD:

Please the Court, this is simply a preliminary question which the State intends to link up to rebutting evidence.

THE COURT:

No, sir, you have got to be more specific than that, you have got to tell me what you are rebutting.

MR. ALFORD:

Yes, sir, I will be glad to tell you.

On Direct testimony and on Cross-Examination Defense witnesses stated that they were not able to determine the lateral angle, they stated that they did not do it. Dr. Finck specifically refused to state the lateral angle. However, he did state facts, and we have already elicited from this witness that based on the facts which were testified to by Dr. Finck, he feels

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that he can state a minimum angle.

We feel like this is perfectly proper  
rebuttal.

THE COURT:

Frame 270 tells you the angle that  
President Kennedy was struck.

MR. ALFORD:

No, Your Honor. I gave the witness a  
hypothet.

THE COURT:

I am aware of that.

MR. ALFORD:

Based on the hypothet, and I only asked  
him about the Zapruder film in order  
to maintain the continuity of the  
testimony.

MR. DYMOND:

Do you want me to say anything further,  
Judge?

THE COURT:

I don't understand Mr. Alford's explanation  
of what he is rebutting. Are you  
rebutting Dr. Finck's testimony?

MR. ALFORD:

Not only Dr. Finck's but also



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Mr. Frazier's testimony, Your Honor.  
Mr. Frazier specifically testified  
that one bullet could have passed  
through two persons seated in the  
President's limousine. I am leading  
up to this. Also Dr. Finck's  
testimony in certain respects.

THE COURT:

That was covered in your original  
presentation of your case.

MR. ALFORD:

Not by us, Your Honor. They put  
Mr. Frazier on. Mr. Frazier is the  
one who stated in his opinion one  
bullet could have passed through two  
persons.

THE COURT:

I can't repeat the testimony, but I am  
certain that was covered.

MR. OSER:

If the Court please, the Defense witness,  
Colonel Finck, testified as to where  
he found a wound in the President's  
clothes. Furthermore he testified  
as to what the track of that wound

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in the throat was, and, in addition,  
he said that no bones were broken,  
and it wasn't until the Defense put  
on Colonel Finck that it was brought  
into the facts and into the evidence  
in this case as to what the  
description of the President's throat  
wound was, and this is what we are  
attempting to rebut at this  
particular time, Your Honor.

THE COURT:

I sustain Mr. Dymond's objection, it is  
repetitious, and besides you are  
asking for an opinion that is not  
covered in his expertise for which  
he was qualified.

MR. ALFORD:

One moment please, Your Honor.

BY MR. ALFORD:

Q Now, Dr. Nichols, if two persons were seated  
in an automobile, one relatively in front  
of another, and a bullet made a path as  
I have described to you through the neck  
of the rear person or the person furthest  
to the rear in the automobile, in your

1 expert opinion, or in your opinion, where  
2 would this person seated in front have to  
3 be seated in order to be struck in the  
4 right armpit?

5 MR. DYMOND:

6 If the Court please, we object to this,  
7 first on the ground that it is too  
8 indefinite, vague, "sitting  
9 relatively in the front." Thirdly,  
10 no foundation has been laid to show  
11 that this Doctor ever examined the  
12 wounds of Governor Connelly, he  
13 does not know exactly where the  
14 Governor was sitting with relation  
15 to the late President Kennedy.

16 THE COURT:

17 I sustain the objection.

18 MR. ALFORD:

19 May it please the Court --

20 THE COURT:

21 I sustain the objection, Mr. Alford.

22 BY MR. ALFORD:

23 Q Now, Doctor, if at the time that the President  
24 has been as observed in the Zapruder film,  
25 reacting to a stimulus at the first point,

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would this angle which you have testified to, being a minimum of 28 degrees, have been affected by the direction in which his head were turned, if in fact it was turned?

A Only very slightly, sir.

Q Would you please explain this.

A Yes, sir. When one moves their head, most of the rotation takes place at the top of the vertebral column. We have seven cervical vertebrae. For example, if you move your head seven degrees, you do not get one degree of rotation on the vertebra, you get the majority of the rotation on the top two vertebrae, say five or six degrees of rotation, and down about C-6 or C-7 where the bullet emerged, you get practically no rotation. This can be very easily confirmed by any person putting a finger here and moving the head slightly (demonstrating). It is easily seen that practically no rotation takes place at the level that the bullet emerged.

Q Now, would the fact that the President's left shoulder were withdrawn from the rear seat

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affect the lateral angle?

A Yes, turning the body at that level would affect it.

Q Now, from your viewing of the Zapruder film and various other pictures, were you able to detect any withdrawing of the left shoulder from the seat?

MR. DYMOND:

Object, if the Court please. The Doctor has testified on Direct Examination when he was here in court before, to the exact location of President Kennedy as though he were in Dealey Plaza when the shots were fired, and this is nothing but repetition of that testimony.

THE COURT:

I think he has covered that point on Direct Examination. I will sustain the objection.

BY MR. ALFORD:

Q Now, Doctor, is the fact that there was a wound in the rear neck measuring approximately seven millimeters by four millimeters, and a wound in the area of

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the knot of the tie measuring approxi-  
mately five millimeters, and said wound  
being supposedly the wound of exit, are  
these two measurements consistent with a  
wound of entrance and a wound of exit?

MR. DYMOND:

If the Court please, the same objection  
on this, it was covered on Direct.

THE COURT:

Just a moment. I particularly remember  
that you covered this subject very  
grossly with Dr. Finck. I don't  
believe that subject matter was taken  
up by this witness previously. I  
will permit the question, I will  
overrule your objection.

BY MR. ALFORD:

Q Could you answer the question?

THE COURT:

Now wait. Let me tell you one thing you  
left out, Mr. Alford, in your  
question, you didn't say it was a  
wound in the fleshy part of the neck,  
not of the skin. You didn't cover  
that point.

Reference copy, JFK Collection: HSCA (RG 233)

1 MR. ALFORD:

2 No, I apologize.

3 BY MR. ALFORD:

4 Q I would add one additional fact to this  
5 question, and that is that this is a  
6 wound through a fleshy portion of the body.

7 A I think in order to answer that question I  
8 would need to have somebody of the same  
9 measurements as the President, and I  
10 would have to go into considerable detail,  
11 the position as measured from the mastoid  
12 and from the acromion. Assuming that it  
13 does miss the vertebral bodies, the  
14 bullet could have traversed the neck,  
15 yes, and come out at the mid line.

16 Q I see. Are the measurements of the wound of  
17 entrance being seven millimeters by  
18 four millimeters, the wound of alleged  
19 exit being five millimeters, consistent,  
20 based upon your experience in the field  
21 of pathology?

22 MR. DYMOND:

23 If the Court please, we object there  
24 again as to the measurements of the  
25 wound of exit. The actual

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measurements of the wound of exit  
have never been firmly established.  
Therefore, this hypothet attempts to  
go outside the bounds of what has  
been proven.

THE COURT:

I overrule the objection. I particularly  
recall a previous doctor talking  
specifically about having measured  
it. I will permit the question.

THE WITNESS:

Generally speaking, the wound of exit in  
the overwhelming majority of cases is  
larger than the wound of entrance.

BY MR. ALFORD:

Q I see. In the example or the hypothet which I  
have given you, is the alleged wound of  
exit larger than the alleged wound of  
entrance?

A No, sir.

Q Now, Doctor, if you were engaged in the  
performance of an autopsy, and in the  
course of the performance of this autopsy  
you found a wound measuring approximately  
seven millimeters by four millimeters in



1 the back or the neck, back of the neck of  
2 a person, but you could not determine or  
3 find a wound of exit, what procedure  
4 would you take at this time?

5 A Before starting this autopsy I would have  
6 X-rays made of the entire body, and I  
7 would have viewed those X-rays personally.  
8 I would have had photographs of the  
9 appropriate anatomy of the body made, and  
10 then not having found a missile in the  
11 body, I would have dissected the track.

12 Q Would there be any other way of accurately  
13 determining the path of a bullet under  
14 these circumstances, other than through  
15 X-rays or dissecting the track?

16 A If the subject was in the exact position at  
17 autopsy as at the time the injury was  
18 inflicted, and you know that one is the  
19 hole of exit and one is the hole of entry,  
20 it would be very simple.

21 Q Now, not knowing that, the location of the hole  
22 of exit, would it be possible to  
23 accurately determine the path of a bullet  
24 without having X-rays or dissecting the  
25 track?

1 A It would not.

2 Q Doctor, are you familiar with the term

3 "bevelling"?

4 A Yes, I am, in relation to missiles in the

5 skull.

6 Q And to what does this term refer?

7 A It refers to the fact that the hole will be

8 larger on one side of the skull bone than

9 it is on the other side.

10 Q Is this always a valid theory under all

11 circumstances?

12 A No, sir. In order to find and firmly establish

13 the bullet hole of entry and the bullet

14 hole of exit, one has to take into account

15 a large number of things, and this is one

16 of the things that you take into account,

17 but it is not always true, there are

18 exceptions.

19 Q I see. And would the type of missile which had

20 entered the skull affect the validity of

21 this theory?

22 A Very much so, sir. Small caliber bullets such

23 as a .22 and such as .32's from pistols

24 and such things as this, the bevelling is

25 much more pronounced and it is a much more

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1 reliable guide. However, with such an  
2 impact of such a bullet of the 161 grain  
3 6.5 millimeter Mannlicher-Carcano, the  
4 head in effect explodes and many fragments  
5 of bone are produced. It is very, very  
6 difficult under these circumstances to  
7 ascertain the point of entry and the  
8 point of exit.

9 Q (Exhibiting document to witness) Doctor, at  
10 this time I show you what for purposes  
11 of identification has been previously  
12 marked as "D-28," and I ask you whether or  
13 not you are familiar with what is depicted  
14 on this sheet of paper.

15 A I am quite familiar with this, sir; I use it in  
16 my own lectures, I have seen it in the  
17 Warren Report, I have seen it in a  
18 publication by Dr. Finck in the Journal  
19 of the American Association for Forensic  
20 Sciences, I have talked with Dr. Finck  
21 about this personally, and I have written  
22 him about this.

23 Q I see. Is this a valid theory under all  
24 circumstances?

25 A No, it is not a valid theory under all

1                   circumstances. With small caliber  
2                   weapons, the principles that he is  
3                   attempting to demonstrate here are reason-  
4                   ably correct. However, with weapons such  
5                   as 6.5 Mannlicher-Carcanos and such things  
6                   as 30/30 rifles, this does not apply.

7           Q       And, Doctor, if a person were struck by a  
8                   bullet in the skull, will signs of  
9                   beveling or coning always be present?

10          A       They do not always occur, sir.

11          Q       All right. If signs of beveling or coning  
12                   are detected in a particular skull, is  
13                   this conclusive evidence as to the  
14                   direction from which the person were  
15                   shot?

16          A       It is not conclusive evidence, sir.

17          Q       What additional evidence would you require?

18          A       I would require all data that could possibly  
19                   be brought to bear on this, including  
20                   photographs taken at the time of the  
21                   infliction of the wound, either stills  
22                   or movies or both.

23          Q       Now, Doctor, if a person was struck in the  
24                   head with a relatively high velocity  
25                   bullet, one traveling at approximately

1 2,000 feet per second, would the effects  
2 of bevelling always be present, and, if  
3 so, how accurate would it be?

4 A Bevelling would not necessarily always be  
5 present, and if it is present, it is  
6 suggestive. However, under these  
7 circumstances, as I have previously said,  
8 the skull breaks into many fragments and  
9 one does not even get all the fragments  
10 with which to piece together the whole,  
11 and you have to speculate in some  
12 instances.

13 Q Could bone or what is known as secondary  
14 missiles cause bevelling?

15 A Oh, yes, sir.

16 Q Could fragments of bullets cause this bevelling?

17 A Yes, sir.

18 Q Have you ever examined a case in which the  
19 theory of bevelling proved to be inaccur-  
20 ate, or coning proved to be inaccurate?

21 A I have examined several cases in which I was  
22 unable to obtain an adequate amount of  
23 bevelling with which to express an  
24 opinion.

25 Q I see. And in these cases, upon what evidence

1 or medical evidence did you rely?

27

2 A I relied upon microscopic sections of skin  
3 wounds, and upon eye-witness reports,  
4 and such things as powder burns.

5 Q Now, Doctor, you have testified that a bullet  
6 entering a neck at the location as I have  
7 given you, but not fracturing bone, would  
8 have to enter at a minimum left-to-right  
9 angle of 28 degrees. Is that correct,  
10 sir?

11 A That is correct, sir.

12 MR. ALFORD:

13 May I have these marked as "State 80" and  
14 "State 81."

15 THE COURT:

16 Show them to Mr. Dymond;

17 (Whereupon, the photographs referred  
18 to by Counsel were duly marked for  
19 identification as "Exhibit S-80"  
20 and "Exhibit S-81.")

21 BY MR. ALFORD:

22 Q (Exhibiting photographs to witness) Now,  
23 Doctor, I show you what for purposes of  
24 identification have been marked as  
25 "S-80" and "S-81," and I would request

1 that you examine both of these photographs 28  
2 and tell me whether or not you recognize  
3 them, and, if so, what they depict.

4 A Yes, sir. Mr. Alford, these are two pictures  
5 taken of a skeleton in which I have  
6 placed a short-end plated dowel in a  
7 position approximately 21 degrees downward  
8 and approximately 28 degrees from the  
9 right to the left, in such a manner as to  
10 get the bullet out at the mid line  
11 approximately in the place where one  
12 does a tracheotomy incision. I have also  
13 indicated on here with letters the  
14 mastoid process and the acromion process.  
15 These pictures were taken under my  
16 personal instruction and supervision, and  
17 they faithfully render that which I  
18 intended to show, within the degree of  
19 accuracy that one can place such a path.

20 MR. ALFORD:

21 May it please the Court, at this time  
22 the State wishes to offer, introduce  
23 and file into evidence exhibits  
24 marked "S-79, S-80," and "S-81."

25 MR. DYMOND:

1 Your Honor, as to "S-79" we have no  
2 objection.

3 MR. DYMOND:

4 As to "S-80" and "S-81," if the Court  
5 please, we object unless this Doctor  
6 is in a position to testify that this  
7 is either a picture of the skeleton  
8 of President Kennedy or that the  
9 relative bone size and bone structure  
10 and so forth of all individuals is  
11 identical. Otherwise it is our  
12 position that these photographs are  
13 irrelevant to the case.

14 THE COURT:

15 Well, Mr. Alford, if you will rephrase  
16 your offer that the pictures are  
17 offered as being similar to an  
18 ordinary male skeleton, then I will  
19 permit the offer --

20 MR. ALFORD:

21 Yes, sir.

22 THE COURT:

23 -- and overrule the objection.

24 MR. DYMOND:

25 To which ruling --



1 THE COURT:

2 They are not being offered as the skeleton  
3 of President Kennedy?

4 MR. ALFORD:

5 That is correct.

6 THE COURT:

7 An ordinary male skeleton.

8 MR. DYMOND:

9 To exhibits "S-80" and "S-81" Counsel  
10 objects to their introduction and  
11 reserves a bill, making the offer,  
12 the objection, the reason for the  
13 objection, the ruling of the Court,  
14 and the entire record, parts of the  
15 bill.

16 MR. ALFORD:

17 At this time, Your Honor, I would  
18 request permission to show these  
19 to the Jury.

20 (Whereupon, the exhibits in question  
21 were displayed to the Jury.)

22 THE COURT:

23 All right. Are you ready to proceed,  
24 gentlemen?

25 MR. ALFORD:

1 I would ask that this be marked "S-82."

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2 (Whereupon, the drawing referred to  
3 by Counsel was duly marked for  
4 identification as "Exhibit S-82.")

5 BY MR. ALFORD:

6 Q (Exhibiting drawing to witness) Doctor, I now  
7 show you what for purposes of identifica-  
8 tion has been marked as "S-82," and I ask  
9 you whether or not you recognize this,  
10 first of all.

11 A Yes. This is a drawing, it is a photograph of  
12 a drawing. I had the drawing prepared at  
13 my explicit instructions and directions,  
14 and photographed. The photograph also  
15 represents a faithful rendition of what  
16 I wanted to do.

17 Q I see. Does this photograph depict a bullet  
18 entering a person at approximately  
19 28 degrees?

20 A Yes, it does.

21 Q Does it also indicate a second person, one  
22 sitting relatively in front of the other?

23 A Yes, it does.

24 Q I see. Does it indicate the path of a bullet  
25 headed into the first person at 28 degrees?

1 A Yes, it does.

2 MR. ALFORD:

3 May it please the Court, at this time  
4 the State wishes to offer,  
5 introduce and file into evidence what  
6 has been previously marked as "S-82."  
7 The State does not state in its  
8 offer that any two persons depicted  
9 are seated in the exact same  
10 positions as President Kennedy or  
11 Governor Connelly, but as Officer or  
12 Agent Frazier stated, it depicts two  
13 persons, one seated relatively in  
14 front of the other.

15 MR. DYMOND:

16 To which we object, if the Court please.  
17 This drawing which, according to the  
18 Doctor's testimony, represents "what  
19 he wanted it to represent," is  
20 entered or offered for a precise  
21 purpose involving precision. Now,  
22 by this Doctor's very testimony it  
23 represents one person "sitting  
24 relatively in front of the other."  
25 Frankly, I don't know what that means

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in terms of precision, I don't believe it means anything, and this is obviously a misleading sketch designed to show exactly what this witness wants it to show.

MR. ALFORD:

No, Your Honor --

MR. DYMOND:

-- using his own measurements, and by his own testimony not being an exact reproduction of anything except his own sketch.

THE COURT:

You see, you would have to get the frame from the Zapruder film and then try to calculate at what particular fraction of a second the entrance wound was made, and then you have to find out where Governor Connelly was at that fraction of a second.

MR. DYMOND:

That is correct.

THE COURT:

The objection is well taken, I sustain it.

1 MR. ALFORD:

2 May it please the Court, this witness is  
3 familiar with the Zapruder film and,  
4 if the Court will allow me, I can  
5 question him.

6 THE COURT:

7 You can question him on what he has found  
8 in the Zapruder film at that precise  
9 fraction of a second, but you cannot  
10 bolster your own witness by letting  
11 him prepare a drawing that aids him  
12 in describing his testimony but  
13 bolsters him. You can't bolster him,  
14 and that is what you are using it  
15 for.

16 MR. ALFORD:

17 It is simply an illustration of his  
18 testimony, that is all.

19 THE COURT:

20 He can orally testify to the facts you are  
21 trying to put over here. I will  
22 sustain the objection, I will not  
23 admit "S-82."

24 BY MR. ALFORD:

25 Q Now, Doctor, did you have occasion to examine

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the Zapruder film at approximately  
frame 225?

A Yes, I have.

Q At this frame can you detect whether or not  
Governor Connelly and President Kennedy  
are sitting relatively in front of each  
other?

THE COURT:

Which frame?

MR. ALFORD:

Frame 225, Your Honor.

THE WITNESS:

Yes, I can.

BY MR. ALFORD:

Q Can you detect their exact location in relation  
to one another?

A With a reasonable degree of accuracy, yes.

Q Would you please explain this to the Gentlemen  
of the Jury.

A Well, by simple observation with the naked eye,  
it appears that Governor Connelly is  
sitting almost exactly in front of  
President Kennedy, perhaps an inch or so  
to the left.

Q Now, Doctor, should a bullet enter a person at

1 a 28-degree lateral angle, where would  
2 another individual seated in front of this  
3 person have to be seated in order to be  
4 struck by the bullet on the right side of  
5 his body?

6 A Very considerably to the left, I would suggest  
7 18 inches or so.

8 Q Did you find as a result of your examination of  
9 the Zapruder film, that Governor Connelly  
10 was seated to the left of President  
11 Kennedy?

12 MR. DYMOND:

13 Your Honor, we object to this testimony.

14 This doctor is no better qualified  
15 to say what the Zapruder film shows  
16 than anybody else, and to have him  
17 get on this stand as an expert in  
18 the field of pathology and try to  
19 tell us what that Zapruder film shows  
20 when we have seen it eight times  
21 here, borders on the ridiculous I  
22 submit!

23 MR. OSER:

24 Your Honor, if the Court please, what the  
25 State is attempting to do at this

1 time is to rebut the testimony of  
2 Agent Frazier. Agent Frazier's  
3 testimony was to the effect that in  
4 the reconstruction he could line up  
5 a shot that would pass through the  
6 President's stand-in and the  
7 Governor's stand-in by sighting from  
8 the sixth floor of the Texas School  
9 Book Depository down to either a  
10 white chalk mark or a piece of cloth  
11 on the back of the stand-in. We are  
12 attempting to do, at this particular  
13 time now that the Defense or after  
14 the Defense has put on Dr. Finck and  
15 we ascertained that it was a through-  
16 and-through gunshot wound and that no  
17 bones were broken -- the Government  
18 in its reconstruction did not  
19 calculate the lateral angle from  
20 right to left passing through  
21 President Kennedy's neck. This  
22 doctor has testified today that the  
23 lateral angle passing right to left  
24 would have to be a minimum of  
25 28 degrees because of the bone



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structure of the human anatomy with which he is familiar. Now at this time we are attempting to introduce this particular exhibit based on the Doctor's research and examination, showing that if a bullet passed through an individual at 28 degrees as described by Dr. Finck, the Defense's witness, what would happen to that bullet and what would be the path of that bullet if it did not hit bone, and this is the reason, Your Honor, this testimony is being offered.

THE COURT:

You have covered that. You are getting to whether or not it would strike someone in front of him. That was the question.

MR. OSER:

That is correct.

THE COURT:

He said the first (person) would have to be 18 inches over to his left. I heard him state that.

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1 MR. OSER:

2 Right, Your Honor, and this particular  
3 exhibit is to show --

4 THE COURT:

5 I have already ruled on that exhibit --  
6 he can answer it orally -- I have  
7 ruled the exhibit out. I believe  
8 the Doctor has answered your question,  
9 he said the person would have to be  
10 18 inches over to receive the wound.  
11 Didn't you say that?

12 THE WITNESS:

13 Approximately 18 inches.

14 BY MR. ALFORD:

15 Q Doctor, in examination of frame 225 of the  
16 Zapruder film, did you find that  
17 Governor Connelly was seated 18 inches to  
18 the left of President Kennedy?

19 A Very definitely not.

20 MR. DYMOND:

21 We object to that, if the Court please.

22 Once again, this is supposedly an  
23 expert in the field of pathology and  
24 has been --

25 THE COURT:

1 And forensic pathology.

40

2 MR. DYMOND:

3 Forensic pathology, too, but not  
4 photography. I haven't heard him  
5 qualified --

6 THE COURT:

7 Overrule the objection. We saw it nine  
8 times and I think I could give you  
9 an expert opinion on it myself.

10 MR. DYMOND:

11 To which ruling Counsel reserves a bill  
12 of exception, making the question,  
13 the objection, the State's  
14 Exhibit 82, the answer of the witness,  
15 the reasons for the objection, the  
16 ruling of the Court and the entire  
17 testimony parts of the bill.

18 BY MR. ALFORD:

19 Q Do you recall the question?

20 A I have forgotten it.

21 MR. ALFORD:

22 Please read it.

23 (Whereupon, the foregoing question  
24 and answer were read back by the  
25 Reporter.)

1 BY MR. ALFORD:

2 Q Do you wish to further answer that question?

3 A I would confirm just that he was sitting  
4 approximately in front and not 18 inches  
5 over, perhaps one inch, perhaps, or two  
6 inches.

7 MR. ALFORD:

8 The State will tender this witness.

9 MR. DYMOND:

10 Did you tender the witness?

11 MR. ALFORD:

12 Yes.

13 CROSS-EXAMINATION

14 BY MR. DYMOND:

15 Q Doctor, have you ever examined the Presidential  
16 limousine which was in Dallas on  
17 November 22?

18 A I went to Washington to do so, sir, but --

19 Q Would you kindly answer my question and then  
20 explain, Doctor.

21 THE COURT:

22 That is correct, just say yes or no.

23 THE WITNESS:

24 No, I have not, sir.

25 MR. ALFORD:

1 Now he has a right to explain.

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2 THE COURT:

3 You can explain.

4 THE WITNESS:

5 (Continuing) I wrote to the Secret

6 Service and asked permission to do

7 this, and they gave me an evasive

8 answer. I went to Washington. They

9 met me at the airport and apologized

10 for having torn it up but gave me the

11 measurements which I have today.

12 BY MR. DYMOND:

13 Q You are the same doctor who sued the  
14 Government, are you not?

15 A I am still suing the Government, sir; it is  
16 not past tense, it is present.

17 Q Now, Doctor, is my understanding correct that  
18 sometimes in writing your autopsy reports  
19 you take into consideration the testimony  
20 of eye-witnesses?

21 A It doesn't influence my decision.

22 Q Didn't you testify just a few minutes ago that  
23 in cases where you might have a skull  
24 wound and you can't find bevelling, that  
25 you take into consideration the testimony

1 of eye-witnesses?

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2 A If my answer conflicted with my testimony, I  
3 would go back and make a reexamination,  
4 sir, but my testimony would not affect  
5 my protocol in the slightest.

6 Q So you would not take that into consideration  
7 in forming your opinion, is that correct?

8 A No, I take into consideration my own  
9 observations personally.

10 Q And that is all?

11 A That is all.

12 Q And you are testifying now that you didn't say  
13 on Direct Examination that you would take  
14 into consideration the testimony of  
15 eye-witnesses?

16 A I don't recall the exact phrasing of that  
17 question, but if I said that, I would  
18 like to withdraw it and amend it: I  
19 would obtain testimony or opinions of  
20 eye-witnesses without --

21 THE COURT:

22 Please.

23 THE WITNESS:

24 -- taking them into consideration is  
25 another matter.

1 MR. DYMOND:

2 At this time, if Your Honor please, I  
3 would like to ask if the Court  
4 Reporter can find that answer given  
5 by the witness.

6 MR. ALCOCK:

7 He acknowledged the possibility of making  
8 the statement. He said if he made  
9 it he was amending it at this time.

10 THE COURT:

11 I agree with you, Mr. Alcock. We are not  
12 going to go back.

13 BY MR. DYMOND:

14 Q So you don't know whether you made that  
15 statement or not? Is that right, Doctor?

16 A I don't think I did, sir.

17 Q Now, Doctor, if you couldn't find a point of  
18 exit to a body wound where you did find  
19 a point of entrance, would you reject the  
20 statement of a brother pathologist whom  
21 you knew to be qualified, to the effect  
22 that he had found a point of exit?

23 MR. ALCOCK:

24 Your Honor, that is asking this witness  
25 to pass judgment on the testimony of

1 another witness in this case, and  
2 this is an objection Mr. Dymond has  
3 made repeatedly.'

4 MR. DYMOND:

5 I am not asking him to pass judgment on  
6 anything, I am asking him to tell  
7 me what he would be willing to  
8 consider in arriving at a conclusion,  
9 that is all.

10 MR. ALCOCK:

11 I will withdraw the objection.

12 THE WITNESS:

13 Repeat the question, please.

14 MR. DYMOND:

15 Would you read it back.

16 (Whereupon, the pending question was  
17 read back by the Reporter.)

18 THE WITNESS:

19 I would consider the possibility that he  
20 had made an error. I would talk  
21 with him. For example, a neck  
22 wound -- I myself personally found a  
23 neck wound in the back but no  
24 apparent wound in the front, and in  
25 this instance it developed that the



1                   decedent had his mouth open and the  
2                   bullet came out the mouth and there  
3                   was none to see.

4 BY MR. DYMOND:

5 Q       Doctor, did you ever examine the remains of  
6           President Kennedy?

7 A       I have requested to do so, sir, but been  
8           rejected.

9 Q       Would you answer the question and then explain  
10          if you want to.

11 A       No, I have not, sir.

12 Q       Have you ever seen the X-ray films or X-ray  
13          pictures?

14 A       No, I have not, sir.

15 Q       Have you ever seen the autopsy photographs?

16 A       I have not, sir.

17 Q       Doctor, weren't you a student under Dr. Finck  
18          at the Armed Forces Institute of  
19          Pathology?

20 A       I attended three lectures given by Dr. Finck,  
21          yes, and in that sense he is my mentor,  
22          sir. In correspondence with him he refuses  
23          to talk to me about the subject. I  
24          attempted to do so on many occasions; it  
25          was part of my trip to Washington to talk

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1 to Dr. Finck, but he rejected me.

2 MR. DYMOND:

3 That is all.

4 MR. ALFORD:

5 The State calls Peter Schuster.

6 ...oOo...

7 PETER SCHUSTER,

8 a witness called by and on behalf of the State,  
9 having been first duly sworn, was examined and  
10 testified, on Rebuttal, as follows:

11 DIRECT EXAMINATION

12 BY MR. OSER:

13 Q State your name for the record, please.

14 A Peter Schuster.

15 Q By whom are you employed?

16 A Dr. Rabin, Coroner.

17 Q In what capacity are you employed in the  
18 Coroner's Office, Mr. Schuster?

19 A Photographer and investigator.

20 Q How long have you been an employee of the  
21 Coroner's Office?

22 A Approximately seven years.

23 Q During that seven years what have been your  
24 duties?

25 A To photograph violent deaths, investigate them

1 for the Coroner.

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2 MR. OSER:

3 Your Honor, the State is going to attempt  
4 to qualify Mr. Schuster in the field  
5 of photography.

6 THE COURT:

7 To give an opinion or to testify to a  
8 specific photograph?

9 MR. OSER:

10 Both to give an opinion and testify about  
11 a specific photograph, if the Court  
12 please.

13 THE COURT:

14 You gentlemen step up here, please.  
15 (Conference at the Bench off the  
16 record.)

17 THE COURT:

18 We are going to take a five-minute recess.  
19 Take the Jury upstairs, please.

20 (Whereupon, a brief recess was  
21 taken.)

22 AFTER THE RECESS:

23 THE COURT:

24 Now are the State and the Defense ready  
25 to proceed?

1 MR. OSER:

2 We are ready, Your Honor.

3 MR. DYMOND:

4 We are ready, sir.

5 THE COURT:

6 You may proceed.

7 BY MR. OSER:

8 Q Mr. Schuster, how long have you been involved  
9 in the area of photography?

10 A Approximately ten years in photography.

11 Q Do you have any particular formal education in  
12 this area?

13 A I hold a degree in photography, Social Science  
14 in Photographic Technology.

15 Q Where did you receive that degree, sir?

16 A Here in town at Delgado Technical Institute.

17 Q During your career in photography, do you ever  
18 have occasion to give any instructions or  
19 teach anywhere?

20 A I taught photography a short time.

21 Q Where was that?

22 A At Delgado.

23 Q Mr. Schuster, can you give us an estimate of  
24 approximately how many pictures you take  
25 and develop during a year's time in the

1 Coroner's Office?

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2 A Oh, I imagine it is around 5,000 or 6,000 a  
3 year.

4 Q And do you also have outside photographic work  
5 besides that of the Coroner's Office?

6 A Yes, I do work on the outside besides the  
7 Coroner.

8 Q Does that also involve taking and developing  
9 and printing of photographs?

10 A It does.

11 Q Have you ever had occasion, Mr. Schuster, to  
12 analyze any of the products of your own  
13 work but that -- I mean have you had  
14 occasion to analyze photographs that you  
15 have taken while in the Coroner's Office?

16 A I did, sir.

17 Q And can you give me an example of what type of  
18 analyzing you have done in the past in  
19 regards to photography?

20 A Oh, we have done work on -- for example, on  
21 suicides where we have to make extremely  
22 large ones showing wounds, the scene of  
23 the entrance and exit of bullets, pieces  
24 of evidence that may be on the floor and  
25 from a normal photograph it can't be

1 detected what it is and extremely large  
2 ones are necessary to analyze this  
3 particular piece of evidence.

4 Q Have you ever failed to qualify in any of the  
5 courts of the Criminal District Court in  
6 the field of photography, Mr. Schuster?

7 A Never, sir.

8 Q Have you ever been qualified in the Federal  
9 Courts in the field of photography?

10 A I have, sir, I have.

11 MR. OSER:

12 I tender the witness to Mr. Dymond on his  
13 qualifications.

14 THE COURT:

15 Let's see. Would you state the  
16 particular field that you wish to  
17 have Mr. Schuster qualified in, state  
18 specifically what opinions you wish  
19 to elicit. Let's see if I understand.  
20 You are tendering the witness as an  
21 expert in the field of photography to  
22 the end that he can give his opinion  
23 and interpret and analyze photographs?

24 MR. OSER:

25 That is what we are tendering him on,

1 Your Honor.

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2 THE COURT:

3 He is tendered for traverse.

4 MR. DYMOND:

5 If the Court please, we will stipulate  
6 that Mr. Schuster is an expert in  
7 the area of taking pictures and  
8 enlarging them. Other than that I  
9 would like to traverse, because he  
10 is offered beyond that scope. Is  
11 that right, Mr. Oser?

12 MR. OSER:

13 Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DYMOND:

16 Q Now, Mr. Schuster, what training have you had  
17 in the interpretation of photographs?

18 A Well, during a two-year course; I couldn't tell  
19 you the exact time in this two-year  
20 course that was given to the interpretation  
21 of photographs, but it was part of the  
22 course.

23 Q Now, just what field did this part of the course  
24 that covered interpretation of photographs  
25 cover?

1 A Enlarging.

2 Q Was that identifying objects in photographs?

3 A Enlarging and identifying objects.

4 Q You have qualified as an expert in that  
5 particular field of photography?

6 A In other words, have I ever qualified in court  
7 as identifying a specific object in a  
8 specific picture?

9 Q That is correct.

10 A I have, sir, identified specific objects in  
11 specific pictures and enlargements.

12 Q Have you ever qualified as a photographic  
13 analyst?

14 A As a photographic analyst? Not that I can  
15 recall as an analyst.

16 Q Have you had any particular training in the  
17 field of photographic analysis?

18 A Part of the two-year course was devoted to  
19 this.

20 Q How much of it?

21 A I couldn't remember the exact specific time.  
22 This was seven or eight years ago.

23 Q Have you ever even attempted to qualify as a  
24 photographic analyst?

25 A Not that I can recall, as an analyst.



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MR. DYMOND:

If the Court please, we submit that the witness is not qualified as an expert in that field.

THE COURT:

Well, the Article on expert testimony states in Article 464 of the Code of Procedure:

"On questions involving a knowledge obtained only by means of a special training or experience, opinions of persons having such special knowledge are admissible as expert witnesses."

In a footnote it says:

"It is not necessary for a person to have scientific professional or technical training in order to be able to draw inferences or conclusions. He may gain such special knowledge from practical experience and observation in his line of work as to qualify him to express an opinion concerning a fact."

(REPORTER'S NOTE: The above quotation

1 is transcribed from the notes as they  
2 lie. The reader is referred to the  
3 source.)

4 MR. DYMOND:

5 If the Court please, this witness has not  
6 even had experience in the field of  
7 photographic analysis to the extent  
8 that would qualify him under that  
9 Article.

10 THE COURT:

11 You are using the word "analysis"; I  
12 think the word would more properly  
13 be "explain" or "interpret."

14 MR. DYMOND:

15 Interpretation or analysis.

16 THE COURT:

17 I am going to rule that Mr. Schuster is  
18 qualified as far as I am concerned  
19 as an expert in this field because  
20 of his practical experience over the  
21 years plus his schooling, and I will  
22 permit him to give an opinion or  
23 interpretation or explain in full.

24 MR. DYMOND:

25 To which ruling Counsel reserves a bill,

1 making the objection to the  
2 qualification of the expert, his  
3 entire testimony on the laying of  
4 the predicate, the reason for our  
5 objection, the ruling of the Court,  
6 and all of the testimony up until  
7 this point parts of the bill.

8 THE COURT:

9 Very well.

10 You may proceed, Mr. Oser.

11 DIRECT EXAMINATION RESUMED

12 BY MR. OSER:

13 Q (Exhibiting photographs to witness)

14 Mr. Schuster, I now show you State  
15 Exhibits S-51 and S-52 and ask you whether  
16 or not you have ever seen these exhibits  
17 before.

18 A I have, sir.

19 Q And where have you seen them before,

20 Mr. Schuster?

21 A Well, I have had them in my possession. I  
22 received them on January 20 from you,  
23 sir.

24 Q From me?

25 A From you.

1 Q And how long did you have these pictures in  
2 your possession?

3 A Till February 13.

4 Q Of 1969?

5 A 1969.

6 Q While these photographs or pictures or exhibits  
7 were in your possession, did you have an  
8 occasion to do any particular type of work  
9 or examination of these exhibits? If so,  
10 what?

11 A I examined these photographs from January 20  
12 until February 10, 1969 before anything  
13 was done with them.

14 Q Can you tell me, Mr. Schuster, approximately  
15 how much time you spent in examining these  
16 photographs during that period of time?

17 A Oh, I couldn't estimate the amount of hours,  
18 but if I had to, 50 or 60 hours.

19 Q Now, as a result of your having examined these  
20 photographs -- and I speak more specifi-  
21 cally of State Exhibit 51 -- I ask you if  
22 you had occasion to examine it and arrive  
23 at any conclusion in regard to a specific  
24 area depicted in that photograph.

25 MR. DYMOND:

1 If the Court please, we object to this now  
 2 on the ground that it has no place  
 3 in rebuttal. We have offered no  
 4 testimony in the presentation of the  
 5 Defense's case concerning these  
 6 photographs, nor have we offered  
 7 testimony concerning anything depicted  
 8 in these photographs. The State is  
 9 in the midst of rebuttal now, and  
 10 this is not rebuttal evidence.

11 THE COURT:

12 I will be glad to hear from the State in  
 13 reply to Mr. Dymond.

14 MR. OSER:

15 If the Court please, this witness is being  
 16 offered in rebuttal in reply to the  
 17 Defense's testimony that all the  
 18 shots came from the rear.

19 MR. DYMOND:

20 If the Court please, I submit that if  
 21 the Court will examine these  
 22 photographs, that they have no  
 23 bearing on the question of whether  
 24 all the shots came from the rear or  
 25 not.

Reference copy, JFK Collection: HSCA (RG 233)

1 MR. ALCOCK:

2 Your Honor, that is a matter of weight;  
3 the Jury must decide, not Mr. Dymond.

4 MR. DYMOND:

5 If the Court please, Your Honor can pass  
6 on the question of whether it is  
7 rebuttal testimony.

8 THE COURT:

9 I pass on the admissibility, not the  
10 weight -- the weight is for the Jury.  
11 I agree with Mr. Alcock that the Jury  
12 should determine the weight. Is that  
13 your objection?

14 MR. DYMOND:

15 No, my objection is to the admissibility.  
16 They are restricted to rebutting  
17 what we put on in the presentation of  
18 our case, and these photographs have  
19 nothing to do with that.

20 THE COURT:

21 Well, I think it is relevant, I think it  
22 is rebuttal, and I think your  
23 objection is to weight, not admissi-  
24 bility. Therefore, I overrule your  
25 objection.

1 MR. DYMOND:

2 To which ruling Counsel reserves a bill,  
3 making the question, the entire line  
4 of questioning to this witness, the  
5 two photographs, S-51 and S-52, the  
6 objection, the reasons for the  
7 objection, the ruling of the Court  
8 and the entire testimony up to now,  
9 parts of the bill.

10 THE COURT:

11 Would you like to rephrase your question?

12 MR. OSER:

13 I will, I will rephrase it.

14 MR. DYMOND:

15 Excuse me, Mr. Oser. I would like to have  
16 it understood that my bill applies to  
17 all questions propounded in connection  
18 with these photographs on rebuttal.

19 THE COURT:

20 Very well. Let it be noted in the record.

21 BY MR. OSER:

22 Q Mr. Schuster, directing your attention to  
23 State Exhibit 51, I ask you whether or not  
24 you had occasion to examine any particular  
25 area contained in that photograph.

1 A I did, sir.

2 Q And what particular area did you examine, sir?

3 A The right top corner.

4 Q And what type of examination did you conduct in  
5 regards to the right top corner?

6 A I rephotographed it -- copied it in plain words  
7 -- and blew this area up to a great  
8 proportion.

9 Q Do you have any such blow ups or exhibits in  
10 your possession, with you, sir?

11 A I do.

12 Q May I have them?

13 A Yes (producing blow ups).

14 THE COURT:

15 Show them to Mr. Dymond.

16 MR. OSER:

17 I am, Your Honor.

18 THE COURT:

19 Are these blow ups?

20 MR. OSER:

21 Yes, sir.

22 THE WITNESS:

23 These are, yes, sir.

24 MR. OSER:

25 What is the next State number, if



1 the Court please?

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2 THE CLERK:

3 Eighty-three.

4 MR. OSER:

5 I will mark this for identification "S-83."

6 (Whereupon, the photograph referred

7 to by Counsel was duly marked for

8 identification as "Exhibit S-83.")

9 BY MR. OSER:

10 Q (Exhibiting photograph to witness) I show you,

11 Mr. Schuster, what the State has now

12 marked for purposes of identification

13 "S-83," and I ask you if you can identify

14 that particular exhibit. If so, how?

15 A I can identify it; my signature is on the

16 reverse side of the photograph.

17 Q Did you make and develop this particular

18 photograph?

19 A I did, sir.

20 Q And what did you make this photograph from,

21 Mr. Schuster?

22 A From an original 8 x 10, which is marked "S-51."

23 MR. OSER:

24 We will mark the next one "S-84."

25 (Whereupon, the photograph referred

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to by Counsel was duly marked for  
identification as "Exhibit S-84.")

BY MR. OSER:

Q (Exhibiting photograph to witness) I now show  
you that which has been marked "S-84" for  
purposes of identification, and I ask you  
whether or not you can identify that  
exhibit, and, if so, how.

A My signature is on the reverse side of the  
photograph also.

Q And what does that photograph depict?

THE COURT:

What a minute. The signature being on it  
doesn't mean anything. You took it?

THE WITNESS:

It is my signature and I photographed it.

THE COURT:

I see. You took it yourself. The fact  
that your signature is on it -- you  
actually did the work?

THE WITNESS:

Right.

BY MR. OSER:

Q And what does that particular photograph, "S-84,"  
for purposes of identification,

1 represent, Mr. Schuster?

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2 A What does it represent?

3 Q Yes. What did you take a picture of, if you  
4 did?

5 A Took a picture of -- in my opinion, it was a  
6 man.

7 Q And where did you take that?

8 MR. DYMOND:

9 Your Honor, that is the type of testimony  
10 that we object to this witness being  
11 able to give. He is not qualified on  
12 it.

13 THE COURT:

14 Well, I have already qualified him, I  
15 ruled on that a few minutes ago.

16 MR. DYMOND:

17 No, he hadn't given that type of answer.  
18 If the Court please, we submit on  
19 this type of answer this man is not  
20 qualified to give it any more than  
21 you or I.

22 THE COURT:

23 I disagree with you. I ruled on that a  
24 few moments ago.

25 MR. DYMOND:

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All right. To which ruling again I reserve a bill of exception, making the entire testimony, the exhibits S-83 and S-84, the ruling of the Court, the reason for the objection, and all the testimony parts of the bill.

THE COURT:

I ruled, Mr. Dymond, for the sake of the record, that because of his ten years experience and training and schooling he could give his interpretation and could explain a photograph that he took himself.

MR. DYMOND:

Very well.

THE COURT:

That was my ruling a few moments ago.

You may proceed, Mr. Oser.

BY MR. OSER:

Q Mr. Schuster, can you tell me how S-84 for purposes of identification, came about?  
How did you come to take this picture?

A Upon blowing up S-83 it was evident, in my

1 opinion, that there was a man in the right  
2 corner of S-83, so, in turn, S-83 was  
3 enlarged and is now S-84.

4 Q And in doing these blow ups and taking the  
5 pictures and developing of the negatives  
6 and the printing of the two exhibits you  
7 hold in your hand, did you do that  
8 yourself?

9 A I did, sir.

10 Q (Exhibiting photograph to witness) I now show  
11 you what the State marks for purposes of  
12 identification "S-85," and I ask you if  
13 you can identify that exhibit.

14 A I identify it as a copy of a photograph I have  
15 taken. My signature appears on the  
16 reverse side.

17 (Whereupon, the photograph referred  
18 to by Counsel was duly marked for  
19 identification as "Exhibit S-85.")

20 BY MR. OSER:

21 Q Did you take that particular photograph and  
22 develop the negative, and print same?

23 A I did, sir.

24 Q And what does that photograph, which is marked  
25 "S-85" for purposes of identification,

1 depict?

2 A It depicts the top rear corner of S-51. On the  
3 left side of the photograph and on the  
4 right top corner is an extreme blow up of  
5 the man in the photograph.

6 Q Am I correct in stating, Mr. Schuster, that  
7 S-85 contains S-83 and -84 that you  
8 developed?

9 A It does, sir.

10 Q Now, Mr. Schuster, using State Exhibit 51, can  
11 you point out for me the area on that  
12 particular photograph where you said after  
13 you had a chance to observe and examine  
14 this particular photograph, that you saw  
15 what appears to be a man?

16 A Top right corner right here (indicating).

17 Q Can you circle it for me, please, with this  
18 fountain pen?

19 A The whole area that was photographed originally?

20 Q The area in which you found the images, if you  
21 found any.

22 A (The witness complied.)

23 Q (Exhibiting photograph to witness) I show you  
24 State Exhibit, for purposes of identifi-  
25 cation, S-83, and I ask you if you will

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mark that area also.

A (The witness complied.)

Q I ask you the same question with regards to  
S-84.

A (The witness marked the exhibit as requested.)

Q And the same question in regards to S-85.

A (The witness marked the exhibit as requested.)

MR. OSER:

At this time, Your Honor, if the Court  
please, the State wishes to offer,  
introduce and file into evidence  
that which has just been marked for  
purposes of identification "S-83,  
S-84," and "S-85."

THE COURT:

Is there any objection?

MR. DYMOND:

Yes, we object on the same grounds that we  
objected to the testimony of this  
witness, Your Honor.

THE COURT:

My ruling is the same.

MR. DYMOND:

And we would like to reserve the same  
bill, making these exhibits parts of

1 the bill together with the other  
2 material I included in the other bill.

69 )

3 BY MR. OSER:

4 Q Now, Mr. Schuster, showing you State Exhibit 85,  
5 I ask you whether or not you had an  
6 occasion to make any further copies of  
7 S-85?

8 A I did.

9 Q Do you have them with you?

10 A I do.

11 Q Would you compare the copies of S-85 that you  
12 have and tell me whether or not they were  
13 taken from the same negative and represent  
14 the same thing as depicted in S-85.

15 A It does.

16 Q Did you have an occasion, on the copies of  
17 S-85, to mark any particular areas on that  
18 photograph, on those photographs?

19 A I did.

20 Q And what areas were those, sir?

21 A (Indicating) These two right top corners.

22 Q May I have them, please?

23 A (Photographs handed to Counsel.)

24 Q Mr. Schuster, these fourteen copies, do all of  
25 them contain your signature?



1 A It does.

2 MR. OSER:

3 At this time, Your Honor, the State  
4 requests permission to display these  
5 copies to the Jury before further  
6 testimony in connection with this  
7 witness.

8 MR. DYMOND:

9 We join in the request, if the Court  
10 please.

11 THE COURT:

12 Very well.

13 (Photographs displayed to the Jury.)

14 BY MR. OSER:

15 Q Now, Mr. Schuster, in regards to State Exhibit  
16 85, which I now show you, can you tell me  
17 what type of analysis or examination that  
18 you performed in the particular areas that  
19 are circled, and what the results of your  
20 examinations were?

21 A Well, this area was photographed, and in  
22 reproducing this area to an extremely  
23 large (size) it was found -- this man's  
24 head was found, this man in this right  
25 corner on the larger of the two pictures.

1 MR. DYMOND:

2 Now, if the Court please, I object to  
3 this witness saying what was on a  
4 larger one. If it is larger than  
5 these, let him bring it into court.

6 THE WITNESS:

7 I am speaking of the larger of two on  
8 this one sheet.

9 MR. WILLIAM WEGMANN:

10 The larger of the two circles?

11 THE WITNESS:

12 Right. The one circled on the left, I  
13 blew it up to what is on the right,  
14 to about as large as I think this  
15 negative could be blown and still be  
16 visibly clear.

17 THE COURT:

18 I believe his question to you was, after  
19 the so many hours that you said you  
20 examined it, what did your examina-  
21 tion consist of. Was that the  
22 question?

23 THE WITNESS:

24 In photographing the particular picture  
25 from different angles -- not angles

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but different areas I should say --  
and studying them with magnifying  
glasses to find out if there were  
any people in the pictures, this is  
the only one, in my opinion, I could  
say is definitely a person.

BY MR. OSER:

Q And what led to your opinion, Mr. Schuster, in  
your mind after having examined this  
photograph, that that is the image of a  
man?

A Because all his features are there. I mean you  
can see it is a man by looking at the  
photograph.

THE COURT:

I have a magnifying glass if you wish to  
use it, I mean if you wish to make  
use of it.

THE WITNESS:

Now, on the small circle it is much  
clearer, because the larger you blow  
up anything the more detail you are  
going to use, and you can see his  
head, his collar, his hand, his hair,  
his eyes, his nose, his whole face

1 as far as I am concerned.

2 BY MR. OSER:

3 Q Can you see anything else in regard to this  
4 particular man besides his features, in  
5 your opinion?

6 THE COURT:

7 Wait a minute (handing magnifying glasses  
8 to jury).

9 THE WITNESS:

10 He appears -- appears to be holding  
11 something.

12 MR. OSER:

13 I tender the witness.

14 CROSS-EXAMINATION

15 BY MR. DYMOND:

16 Q Mr. Schuster, am I correct in understanding that  
17 you are testifying under oath that you  
18 have a firm opinion that that photograph  
19 definitely shows a man in it?

20 A In my opinion. In my opinion there is no doubt  
21 that is a man.

22 Q Is there definitely a gun there, too?

23 A Now, I didn't say that. I don't know what that  
24 is, I have no idea what that is.

25 Q But you can look at that photograph and tell us

1                   definitely, in your opinion, there is a  
2                   man, is that right?

3           A        That is right.

4           MR. DYMOND:

5                   That is all.

6           MR. OSER:

7                   Your Honor, at this time --

8           THE COURT:

9                   Just a second, Mr. Oser. The Jury is  
10                   still examining. Why don't you let  
11                   them finish examining and then I will  
12                   hear from you.

13          MR. OSER:

14                   I am just asking permission to display  
15                   the other exhibits to the Jury at  
16                   the same time, if the Court please.

17          THE COURT:

18                   Very well.

19                   (Photographs displayed to the Jury.)

20          MR. OSER:

21                   If the Court please, the State has no  
22                   further use of Mr. Schuster, and  
23                   we ask that he be excused.

24          THE BAILIFF:

25                   Order in court, please.

1 THE COURT:

2 Gentlemen of the Jury, you're not supposed  
3 to discuss with one another what you  
4 see, you have to keep that to  
5 yourselves and do that later. Don't  
6 confer with one another on what you  
7 find on there; you may be tempted to  
8 do it but you can't do it.

9 I think they are ready to return  
10 the photographs.

11 MR. OSER:

12 May Mr. Schuster be excused from the  
13 subpoena, Your Honor?

14 THE COURT:

15 Mr. Schuster, you are excused, released  
16 from the legal obligations of the  
17 subpoena.

18 I see Dr. Rabin. We are going  
19 to take a five-minute recess. Take  
20 the Jury upstairs.

21 (Whereupon, a brief recess was taken.)  
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1 AFTER THE RECESS:

2 THE COURT:

3 Just for the record, I had a note from  
4 Sheriff Heyd that one of the jurors  
5 or maybe more than one was to see  
6 a doctor, so we sent Dr. Rabin,  
7 the Coroner, up to see him. Now,  
8 he has been seeing these jurors  
9 every Friday and was intending to  
10 go see them this evening at the  
11 Rowntowner. It is nothing serious,  
12 but that is as far as I can go.

13 All right. Bring the jury in.

14 (Jury returns to the box.)

15 THE COURT:

16 All right.

17 Gentlemen, are the State and the Defense  
18 ready to proceed?

19 MR. GARRISON:

20 The State is ready.

21 MR. DYMOND:

22 The Defense is ready.

23 THE COURT:

24 Call your next witness.

25 MR. GARRISON:

I call Elizabeth McCarthy.

ELIZABETH MCCARTHY,

a witness called by and on behalf of the State,  
having been first duly sworn, was examined and  
testified as follows:

DIRECT EXAMINATION

BY MR. GARRISON:

Q Mrs. McCarthy, would you give us your full  
name, please.

A Elizabeth McCarthy Badlian. I use my maiden  
name, McCarthy, in business.

Q What is your business?

A I am an examiner of questioned documents,  
ordinarily called a handwriting expert.

Q Would you please state your education and  
your training in that field.

A I have an AB degree from Vassar College, an  
ABS degree from Simmons College and an  
LLB from Worcester Law School. I studied  
identification of handwriting, type-  
writing, paper, rubber stamps, alter-  
ations, and erasures, ink, anything  
that goes to make up a document, with  
William E. Hingston, a noted documents  
authority, and the action of ink and

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other reagents on paper with Dr. Charles Schmidt, an ink chemist. I have been --

Q Excuse me.

A Go right ahead.

Q Had you ever been qualified in any other states before this?

A Yes. I have testified during the last 32 years in 28 states, the District of Columbia, and three foreign countries, where document evidence was material.

Q Would you tell us of any important cases that you have worked on during those years.

MR. DYMOND:

Your Honor, we object to this. When we asked the same question, it was denied.

THE COURT:

I stopped you from going into the Lindbergh case. I will sustain the objection.

MR. ALCOCK:

The Court just mentioned the case.

THE COURT:

I know, but he asked the question. That

1 is when I stopped him, I said the  
2 man shouldn't go into it and tell  
3 us.

4 BY MR. GARRISON:

5 Q Well, during the last 15 years how many  
6 questioned document cases have you  
7 testified in as an expert?

8 A I get two cases a day involving questioned  
9 documents, and on the average about a  
10 quarter of them go to court, the others  
11 are settled on opinion.

12 MR. GARRISON:

13 Your Honor, I submit the witness as an  
14 expert on questioned documents.

15 THE COURT:

16 Do you wish to traverse?

17 MR. DYMOND:

18 Just a few questions, your Honor.

19 TRAVERSE EXAMINATION

20 BY MR. DYMOND:

21 Q Mrs. McCarthy, you testified that you had an  
22 AB degree, is that right?

23 A Yes.

24 Q Now, was there any handwriting study in con-  
25 nection with that AB degree?

1 A No, that was a baccalaureate degree except  
2 for the study of chemistry.

3 Q How about your Bachelor of Sciences?

4 A No, that was a business degree.

5 Q And your legal degree, that is, your LLB  
6 degree, did you study handwriting in  
7 connection with that?

8 A No.

9 Q Now I understand that you have studied hand-  
10 writing and document analysis under two  
11 individuals, is that correct?

12 A Yes.

13 Q Who was the first one whom you named?

14 A William N. Hingston, H-i-n-g-s-t-o-n.

15 Q I see. When did you take this course under  
16 Mr. Hingston?

17 A I studied with him for three or four years  
18 from around 1930 to 1933 or '34.

19 Q And who was the other individual?

20 A Charles Schmidt, S-c-h-m-i-d-t.

21 Q And when was that and for how long?

22 A That was intermittently when there were new  
23 ink problems, like when ballpoint pens  
24 came in in 1945, and quick-drying ink  
25 and various other things.

1 Q Now with respect to Mr. Hingston, was that  
2 a formal school that he was conducting?

3 A No. He wrote three books on the subject and  
4 he --

5 Q I mean how did you happen to study under him?

6 A Well, I had passed -- accidentally. I had  
7 passed the bar, and my law office adjoined  
8 his, and I became interested. I think  
9 after the Lindbergh case many people  
10 were interested in handwriting, and  
11 therefore I just started studying and  
12 started more and more to give time to  
13 it.

14 Q I see. This man had an office next to yours  
15 and you used to go by there?

16 A And a laboratory. Yes, that is right.

17 Q And was that the extent of your training  
18 under him?

19 A No. I familiarized myself, of course, with  
20 all the authorities on the subject, and  
21 read, of course, accounts of famous  
22 cases. I have amassed typewriter  
23 specimens -- as you know, these machines  
24 change very rapidly -- and patterns and  
25 ink and paper specimens. It is a

1 continuous learning process.

2 Q I see. And the other training that you men-  
3 tioned when the ballpoint pen came out,  
4 you said that was intermittent training?

5 A I beg your pardon?

6 Q The other training that you had at the time  
7 that the ballpoint pen came into popular  
8 usage.

9 A I studied about --

10 Q May I finish, please. You say that wasn't  
11 intermittent training that you had with  
12 that individual?

13 A No, I say I studied with him originally at  
14 the time I studied with Dr. Hingston,  
15 and then as various problems, new prob-  
16 lems, came along, I spent hours --  
17 because he was an authority -- learning  
18 about those.

19 Q Now, where is your office located, Mrs.  
20 McCarthy?

21 A 40 Court Street in Government Center in  
22 Boston, Massachusetts.

23 A I see. That is all, Ma'am.

24 MR. GARRISON:

25 Let me ask one more question.

1 THE COURT:

2 I don't think it is necessary.

3 MR. GARRISON:

4 All right. Submitted.

5 THE COURT:

6 If it is submitted, I will rule that the  
7 witness, Mrs. Elizabeth McCarthy,  
8 is qualified as an expert in the  
9 field of questioned documents and  
10 can give her opinion in relation  
11 to that field.

12 CONTINUATION OF DIRECT EXAMINATION

13 BY MR. GARRISON:

14 Q Mrs. McCarthy, did you have occasion to  
15 examine some exemplars of the genuine  
16 handwriting of Clay Shaw in this case?

17 A Yes.

18 MR. GARRISON:

19 May I have Exhibits D-30 through D-43.  
20 (Documents handed to Counsel.)

21 BY MR. GARRISON:

22 Q (Exhibiting documents to witness.) I show  
23 you some documents marked "D-30"  
24 through "D-43", and I ask you to  
25 familiarize yourself with them and see

1 if you have ever seen them before.

2 A Yes, I have.

3 Q When did you see these previously?

4 A I saw copies of them, photostats, and --

5 MR. DYMOND:

6 Your Honor, we object.

7 A (Continuing) -- and the originals.

8 THE COURT:

9 What is your objection?

10 MR. DYMOND:

11 We object to this witness testifying  
12 she saw copies of these, your  
13 Honor, unless it is first estab-  
14 lished, your Honor, that they were  
15 copies. We have no way of knowing  
16 what she actually saw.

17 THE COURT:

18 Mr. Garrison, would you pursue the field  
19 of where she got the copies first,  
20 and we will find out if they were  
21 copies.

22 BY MR. GARRISON:

23 Q Mrs. McCarthy, did you see those documents  
24 before?

25 A Yes.

1 Q Under what circumstances did you see them?

2 A I examined these documents D-30 through D-43  
3 in the property room in the cellar of  
4 this building.

5 Q Are those the same documents you are holding  
6 in your hands that you examined?

7 A Yes.

8 THE COURT:

9 I will rule that she may testify con-  
10 cerning these documents.

11 When you say the property room, you mean  
12 the property room of the Clerk's  
13 Office in the Criminal District  
14 Court, which is located in the  
15 cellar, the basement of this build-  
16 ing?

17 THE WITNESS:

18 That is right, your Honor.

19 THE COURT:

20 You may proceed.

21 BY MR. GARRISON:

22 Q Now, thereafter did you have occasion to make  
23 a study of a questioned signature which  
24 in State Exhibit S-55 reads as: "Clay  
25 Bertrand" (exhibiting document to



1 witness) and I show you the signature,  
2 S-55 being the VIP signature. I ask you  
3 if you have ever seen this signature,  
4 "Clay Bertrand," before (exhibiting  
5 document to witness).

6 A. Yes.

7 Q All right. Now suppose we put this ques-  
8 tioned signature right there for a  
9 moment. Now, as a result of your  
10 studies of the signatures of the Defen-  
11 dant Clay Shaw, and Defense Exhibits  
12 30 through 43, and as a result of your  
13 study of Exhibit State-55, did you reach  
14 any conclusion?

15 A Yes.

16 Q Would you state your conclusion.

17 A It is my opinion that it is highly probable  
18 that Clay Shaw signed the name "Clay  
19 Bertrand" on the -- is that Exhibit 50?

20 Q That is State Exhibit 55.

21 A -- on State Exhibit 55 on the last line of  
22 the page, 12/14/66.

23 Q Would you give us your reasons for that  
24 conclusion?

25 A I find all of Mr. Clay's (sic) normal,

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natural, unconscious writing habits in this questioned exhibit, "Clay Bertrand." He is a very facile, graceful writer, he writes with certain proportions, certain types of initial and connecting and terminal strokes with a light, even, quick pen line. All of these characteristics I find in the questioned exhibit. This is an unusually agile, able writer, and the writing agility and ability in both is remarkably similar. In addition to that I find similarities in all of his letters with the exception of the capital "B." I do not find a capital "B" made exactly in the fashion of the questioned signature, and this may not be unusual because this man was not writing his own last name and therefore it is not unusual when you write the capital letter of a name that is not your own to write it in a different fashion from your normal writing habits. I find his particular type of small "a", small "e", the "r", which is made like an undotted "i", the small "n" also. The terminal

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1 "d" is a rather unusual type of small  
2 "d". Many of us have two or three ways  
3 of making letters, and his perhaps more  
4 usual way, at least in these samples, is  
5 a final "d" that just goes up in the  
6 air with a hook, whereas this "d" re-  
7 turns and is a looped stroke, and that  
8 is found I believe in Exhibit 34, D-34,  
9 Exhibit D-35 -- all of these are --  
10 Exhibit D-42 and D-43. He has a trouble  
11 spot in the capital "N" in New Orleans,  
12 he sometimes retraces it, makes it with  
13 a little more difficulty than perhaps  
14 the rest of the writing which is very  
15 flowing. And the final part of this  
16 letter is a capital "V". It is a down-  
17 stroke, sometimes it is a repeated down-  
18 stroke. Then the final stroke is a  
19 capital "B" with curved edges. The "o"  
20 is an ovate letter with the downstroke  
21 coming through the center of the "o".  
22 I find in the rest of the "Orleans"  
23 similarities in direction, in shape of  
24 the letters, and it is his habit to  
25 make a long -- in many instances, for

1 instance on Exhibit D-30, to make a long  
2 straight comma between the "New Orleans"  
3 and "Louisiana." D-34 and D-30 and some  
4 others have this straight comma that is  
5 rather long and goes well below the  
6 line. Mr. Clay (sic) at times makes a  
7 capital "L" in "Louisiana" with a curved  
8 top looped, and other times without one,  
9 a curved top loop and a loop at the left  
10 and at the bottom of the stroke for one  
11 that is comparable to the one on the  
12 questioned -- I mean D-34. I guess that  
13 is the only one in which he made a curved  
14 top, but he makes an understroke on the  
15 "L" which is like an "H". It is quite a  
16 large curved upstroke. I am not identi-  
17 fying the figures because I don't be-  
18 lieve I have sufficient, but the pen  
19 line in the figures -- I don't have  
20 sufficient basis for the figures -- the  
21 pen line in the figures is very much  
22 like his. The direction of the dia-  
23 gonal and the hooped overstroke is very  
24 comparable and similar to his.

25 For all these reasons, since I find no appre-

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ciable variations, I have come to the  
opinion that I just gave.

MR. GARRISON:

Mr. Dymond, your witness.

CROSS-EXAMINATION

BY MR. DYMOND:

Q Mrs. McCarthy, when were you first retained  
on this case?

A I believe it was yesterday.

Q Yesterday?

A Yes.

Q And when did you arrive here in New Orleans?

A Last night.

Q And when did you commence your comparative  
study of these documents?

A Last night.

Q Where?

A Well, photographs I had. I didn't have the  
originals, I had photographs at my  
hotel.

Q When was the first time that you saw the  
originals?

A This morning.

Q Now, did you bring any photographic equipment  
with you when you came down?

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- 1 A No. I wouldn't have time to make them. I  
2 understood the trial was ending.
- 3 Q And how much time did you spend in connection  
4 with your analysis of these handwriting  
5 samples of --
- 6 A I think four or five hours.
- 7 Q How much time do you usually spend in examin-  
8 ing a questioned document and comparing  
9 it with other writings for the purpose  
10 of arriving at a conclusion or an  
11 opinion?
- 12 A Different times depending on the difficulty  
13 of the problems.
- 14 Q Do you think this was a real easy problem  
15 here?
- 16 A I don't think it is hard, no.
- 17 Q You don't think it is hard?
- 18 A No.
- 19 Q Have you worked with any enlargements?
- 20 A Yes, I would have liked to have enlargements.
- 21 Q I say, did you work with any?
- 22 A No.
- 23 Q You never did?
- 24 A I examined them microscopically. I have a  
25 binocular document microscope.

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Q And what equipment did you bring down here  
with you, Mrs. McCarthy?

A I will show you (opening case). This is the  
binocular document microscope, and these  
are two little Lupes -- L-u-p-e-s --  
they call them.

Q I see. Now, are you being paid to testify  
in this case, Mrs. McCarthy?

A Well, I hope so; it is my business.

THE BAILLIFF:  
Order in court.

BY MR. DYMOND:

Q Well, do you have an agreement to be paid?

A No, I don't. Mr. Garrison said to submit my  
bill. He really didn't ask me about  
fees.

Q You do expect to charge a fee though?

A Naturally, that is my business.

MR. DYMOND:  
That is all, ma'am.

THE COURT:  
Do you have any further need for the  
witness?

MR. GARRISON:  
No, sir.

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1 THE COURT:

2 Mrs. McCarthy, you are excused from the  
3 obligations of the subpoena.

4 (Witness excused.)

5 THE COURT:

6 Mr. Garrison.

7 MR. GARRISON:

8 Your Honor, some members of the Jury  
9 may have some curiosity about look-  
10 ing at these documents. Could we  
11 submit them to them now to look at  
12 them for a few minutes?

13 THE COURT:

14 All right. Let the jurors have the  
15 documents. Would you hand them to  
16 them, Mr. Sullivan.

17 (Documents exhibited to Jury.)

18 MR. DYMOND:

19 If the court please, we will ask at this  
20 time that the enlarged exhibit con-  
21 taining the signatures be brought  
22 out here so that the Jury may see  
23 that, too. It is in evidence.  
24 Where is it -- back in your Honor's  
25 office or what?



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THE COURT:

I understand what you are talking about.

Is there any objection?

MR. ALCOCK:

No, your Honor, no, it is just one  
Exhibit D-30.

THE COURT:

That is correct.

As soon as we finish this, we are going  
to recess for lunch. I would  
appreciate it if everybody would  
sit still.

MR. ALCOCK:

If they want to observe this as they  
are observing these exhibits, I  
have no objection, but I don't  
think we should highlight this  
particular exhibit by putting it  
on the board.

THE COURT:

I know of no other way for them to see  
it.

MR. DYMOND:

I have no desire to highlight it. It is  
a rather large exhibit.

1 THE COURT:

2 You may put it on the easel.

3 (Photographic blowup displayed  
4 on easel. Pause in the proceed-  
5 ing for examination of the  
6 documents.)

7 THE COURT:

8 Mr. Garrison, does the State intend to  
9 call any other witnesses?

10 MR. GARRISON:

11 No, your Honor.

12 THE COURT:

13 Then I would suggest to the State and  
14 the Defense that when we recess  
15 for lunch you let me have your  
16 requests for special charges so  
17 that I can be going over them when  
18 I prepare my general charge which  
19 I have been preparing for the last  
20 two days.

21 I might state, gentlemen, that I will  
22 have my charge Xeroxed and I will  
23 give both sides a copy of it before  
24 I charge the Jury.

25 As I understand it, gentlemen, we don't

1 want to interfere with the jurors  
2 looking at this, but this is another  
3 matter. I understand the State has  
4 requested rebuttal evidence, and  
5 when we return from lunch, which  
6 we will go to in a reasonable time,  
7 Mr. Alcock, you asked previously --  
8 and it was not objected to by the  
9 Defense -- to give you some time  
10 to make some notes in anticipation  
11 of your opening argument.

12 MR. ALCOCK:

13 Your Honor, I will be prepared when we  
14 return from lunch.

15 MR. DYMOND:

16 Your Honor, we might mention to the  
17 Court at this time that there is  
18 a motion which we would like to  
19 file which should be filed out of  
20 the presence of the Jury and which  
21 we can either file after the Jury  
22 is taken out or before they come  
23 back.

24 THE COURT:

25 Well, --

1 MR. DYMOND:

2 It won't take but a couple of minutes.

3 THE COURT:

4 When we finish with this operation, I  
5 will have the Jury back for 1:30.  
6 We will hear your motion and let  
7 the jurors remain upstairs.

8 MR. DYMOND:

9 Fine.

10 THE COURT:

11 But as I understand, the State will be  
12 prepared to proceed with argument  
13 at 1:30 after we have heard your  
14 motion.

15 MR. ALCOCK:

16 Yes, Your Honor.

17 THE COURT:

18 And then we will go through with argu-  
19 ment at 1:30 until we finish it up  
20 this afternoon.

21 MR. ALCOCK:

22 Yes.

23 THE COURT:

24 I might tell the jurors that Dr. Rabin,  
25 the Coroner, will again visit with

1 you gentlemen this evening. He is  
2 coming over to the motel to see you  
3 gentlemen.

4 I might state to the Jury that in my  
5 charge I will state to them that  
6 if they wish to examine any  
7 exhibits of the State or the De-  
8 fense, they are entitled to see  
9 them before they retire. Once  
10 they retire they cannot send for  
11 any documents, and the new law is  
12 that they cannot have any part of  
13 the testimony read back, they have  
14 to depend on their memory. Years  
15 ago they could read it back, now  
16 you cannot.

17 All right, gentlemen. Is the Jury  
18 finished?

19 I would like to let you gentlemen know  
20 that at 1:30, after we hear a  
21 motion from Mr. Dymond, the State  
22 will start the argument, and except  
23 for a brief pause at 3:00 or 3:30,  
24 when one person has finished argu-  
25 ing we will continue on with the

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argument for the rest of the after-  
noon, and then I will charge you on  
the law.

Again I must admonish and charge you not  
to discuss the case with any other  
persons until it is finally given  
to you for your decision and ver-  
dict.

We stand recessed until 2:00 o'clock.

....Thereupon, at 12:00 o'clock noon  
a recess was taken until 2:00 o'clock  
p.m. ....

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. . . Pursuant to the recess, the proceedings herein were resumed at 2:25 o'clock p.m., appearances being the same as heretofore noted in the record. . . .

THE COURT:

I remember, Mr. Dymond, you said you had a motion out of the presence of the Jury.

I would like to make one statement.

During the recess, when we recessed from five after twelve until just a few moments ago, -- what the judge includes in his charge and in his instructions to the Jury -- various facets of the case develop, so the judge does not know until the case is finally submitted what he shall include in his charge, and that is what I have been doing since five after twelve, I have dictated it and it is being typed up now.

For the record, I asked Mr. Garrison just before we recessed, is that

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1 the State's case, and I understand  
2 Mr. Alcock stated that the State  
3 has no further rebuttal witnesses.

4 MR. ALCOCK:

5 That is correct, Your Honor.

6 THE COURT:

7 Mr. Dymond, do you wish to make a motion?

8 MR. DYMOND:

9 If the Court please, at this time we  
10 would like to file our second  
11 motion for a directed verdict.

12 THE COURT:

13 Very well. Let me see it.

14 MR. DYMOND:

15 Rather than reiterate what I stated  
16 before in connection with our  
17 other motion, Your Honor, I would  
18 merely like to put forward --

19 THE COURT:

20 What?

21 MR. DYMOND:

22 I would like to submit to Your Honor  
23 those same arguments, as I am sure  
24 you will remember, together with  
25 the fact that according to the un-



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refuted testimony of Dean Andrews,  
it has been shown that the name  
"Clay Bertrand" had a completely  
fictitious origin, consequently  
rendering the case itself a fic-  
titious one.

We will submit it on that.

THE COURT:

Your motion for a directed verdict is  
denied.

MR. DYMOND:

To which ruling Counsel reserves a bill  
of exception, making the motion  
for a directed verdict, the entire  
record and testimony together with  
the ruling of the Court parts of  
the bill.

THE COURT:

Bring the Jury in.

(Jury returns to the box.)

THE COURT:

Are the State and the Defense ready to  
proceed?

MR. ALCOCK:

Yes, Your Honor.

1 MR. DYMOND:

2 We are ready.

3 THE COURT:

4 You may proceed.

5 MR. ALCOCK:

6 May it please the Court and Gentlemen of  
7 the Jury:

8 Gentlemen, let me begin by thanking you  
9 on behalf of the State of Louisiana  
10 and the District Attorney's office,  
11 first of all for serving on this  
12 Jury. I realize that it has been  
13 a personal sacrifice and certainly  
14 a sacrifice on the part of your  
15 employers as well as on the part of  
16 your families, and we do appreciate  
17 it and I am sure the City of New  
18 Orleans appreciates it.

19 Let me also thank you gentlemen at the  
20 outset for your kind attention.

21 This has been a long tedious trial,  
22 oftentimes there have been some  
23 rather technical points gone into.  
24 There have been experts that have  
25 testified in this case, and I

1 realize as a layman -- and I am a  
 2 layman also -- that sometimes this  
 3 testimony became a little tedious  
 4 and sometimes a little difficult to  
 5 understand and sometimes a little  
 6 difficult to follow, but I certain-  
 7 ly do appreciate the attention that  
 8 you have given to these witnesses.

9 Gentlemen, this is what is known as the  
 10 State's Opening Closing Argument.  
 11 I will attempt during the course  
 12 of this argument to try to piece  
 13 together for you the various bits  
 14 and pieces of evidence as it un-  
 15 folded from the witness stand. We  
 16 have here parts of a puzzle, if you  
 17 will, and I am going to attempt in  
 18 this argument to bring these pieces  
 19 of the puzzle together and to give  
 20 you a clear image of just what the  
 21 case is about. Naturally, during  
 22 this argument I am going to high-  
 23 light those things which I think  
 24 most favorable to the State of  
 25 Louisiana and to the prosecution

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1 in this case.

2 Mr. Dymond and whoever else might argue  
3 for the Defense, in their argument  
4 will highlight those that they  
5 figure most favorable to the Defen-  
6 dant.

7 Now, Mr. Dymond will have a rebuttal  
8 argument, the State will have its  
9 rebuttal argument. It may seem on  
10 the surface somewhat unfair that  
11 the State is given two arguments  
12 as opposed to one for the Defense  
13 attorney, but I submit to you that  
14 the State carries a heavy burden,  
15 and that is proof beyond a reason-  
16 able doubt. Therefore, the Legis-  
17 lature of this State and most states  
18 throughout the United States accord  
19 to the prosecution two arguments.  
20 Therefore, you will hear from the  
21 State twice.

22 And then after Mr. Dymond and Mr.  
23 Wegmann, if Mr. Wegmann should  
24 argue, you will hear again from  
25 the State of Louisiana.

1                   Gentlemen, at the outset of this trial

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2                   the State made what is known as an  
3                   opening statement, and in that

4                   opening statement, which is not --

5                   and I remind you again, is not --

6                   evidence in this case, the State

7                   outlined in thumbnail fashion,

8                   schematic fashion, blueprint

9                   fashion, what it intended to prove

10                  during the course of the trial.

11                  The State was required by the law

12                  of Louisiana to make this opening

13                  statement; Defense Counsel was not

14                  required to make an opening state-

15                  ment. However, in this case, as is

16                  sometimes the situation, Defense

17                  Counsel chose to make an opening

18                  statement, and in his opening state-

19                  ment, gentlemen, he made certain

20                  promises to each and every one of

21                  you.

22                  One promise that comes to my mind most

23                  readily and most clearly is this:

24                  that his client, Clay Shaw, not

25                  only did not conspire with David

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this testimony from these people who had nothing to gain, the State proved certain important and crucial elements of its case.

The first man to take the stand was Mr. Lee McGehee, the barber from Jackson, Louisiana. He testified that Lee Harvey Oswald entered his barbershop and received a haircut from him in late August or early September, 1963. Now, there was nothing great or significant about this gentleman except the fact that his testimony also adduced these facts: Lee Harvey Oswald was interested in gaining employment in the East Louisiana State Hospital at Jackson, Louisiana; Mr. McGehee directed Lee Harvey Oswald to Reeves Morgan, who was then the State Legislator for East Feliciana Parish. Lee Harvey Oswald arrived, gentlemen, or at least Mr. McGehee deduced he arrived in an old battered automobile and there was

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1 was in fact in association with  
2 those two men.

3 So I submit to you gentlemen, within  
4 four hours the promise was broken  
5 and the Defendant was proven a  
6 liar.

7 Now, gentlemen, the State opened its  
8 case in Clinton, Louisiana. We  
9 heard from some six or seven wit-  
10 nesses from Clinton, Louisiana.  
11 These people are not involved in  
12 this case directly. These people,  
13 gentlemen, had nothing to gain by  
14 coming to the City of New Orleans  
15 and testifying, perhaps an environ-  
16 ment strange to them and certainly  
17 a courtroom strange to them. I  
18 doubt if any of them had ever  
19 testified in any criminal prosecu-  
20 tion before, and certainly not in  
21 a criminal prosecution of this  
22 significance or notoriety, not in  
23 a criminal prosecution in a court-  
24 room filled with reporters from  
25 all over the world. Gentlemen, by

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W. Ferrie or Lee Harvey Oswald, but 107  
did not know either David W. Ferrie  
or Lee Harvey Oswald, and further,  
gentlemen, never laid his eyes on  
either one or both of these men.

Gentlemen, I submit to you that within  
four hours of the beginning of this  
trial that promise was broken. That  
promise, gentlemen, lay shattered,  
broken, and forever irretrievable  
in the dust of Clinton, Louisiana.

With that promise being broken, gentle-  
men, the Defendant before the Bar,  
that man right there (indicating),  
was a proven liar unworthy of your  
belief, and the Judge will charge  
you that if any witness, either for  
the State or for the Defense, lies  
on any material issue, you may dis-  
regard his entire testimony. And  
there can be no more material  
issue in this case than whether or  
not the Defendant, who is charged  
with having conspired with two men,  
did in fact know those two men and



1 a young lady in the automobile.

2 Now I want to at this time make it abun-  
3 dantly clear that the State does  
4 not claim that it identified that  
5 woman at all. The State is cer-  
6 tainly not coming before this Jury  
7 and saying that it was Marina  
8 Oswald, now Marina Oswald Porter,  
9 that drove him. I wish we could  
10 have identified her, I wish we  
11 could have brought her into the  
12 courtroom and presented her to  
13 you. But nevertheless he did  
14 appear on that occasion.

15 And Mr. McGehee did something else, he  
16 mentioned the name of Henry Earl  
17 Palmer, and not the necessity but  
18 the fact that it would serve  
19 Oswald well if he should register  
20 to vote in the area, since he was  
21 sending him to the State Legis-  
22 lator, and he mentioned Clinton,  
23 Louisiana.

24 Now, after this, gentlemen, and I submit  
25 as a direct result of this, Lee

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Harvey Oswald went to the home of Reeves Morgan, again in the City of Jackson, Louisiana, or, as he put it, somewhere close by the city or on the outskirts of the city. He went into Mr. Morgan's home and at first introduced himself as Oswald. You recall Mr. Reeves Morgan saying that he mentioned the name of Oswald Chance, an acquaintance of his, asking Lee Harvey Oswald if perhaps he was related to Oswald Chance because of the similarity of the name Oswald. He also mentioned the possibility of Lee Harvey Oswald registering to vote, and the place to register to vote, gentlemen, was Clinton, Louisiana.

On the way out of the door, he had more than just the name Oswald, because Lee Oswald told him his name was Lee Oswald and he was from New Orleans, Louisiana.

After the assassination when Mr. Morgan

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saw Lee Harvey Oswald on television, 112  
he had a conversation with Mr.  
McGehee. Mr. McGehee confirmed the  
fact that the man he sent to his  
home was the same man he, Mr.  
McGehee, had seen on television --  
Lee Harvey Oswald. Mr. Morgan went  
one step further. Mr. Morgan called  
the Federal Bureau of Investigation  
and told them of the presence of  
Lee Harvey Oswald and got the  
response, "We know he was in the  
area."

Gentlemen, I submit with just these two  
witnesses the State has proven  
beyond any doubt that Lee Harvey  
Oswald was in fact in the Jackson-  
Clinton area in late August, early  
September, 1963.

Now, gentlemen, there was at that time  
in the City of Clinton certainly  
an unfortunate confrontation. The  
situation was not normal. People  
unfortunately were suspicious of  
their neighbors and even more

1 suspicious of any strangers that  
2 might have been in the town of  
3 Clinton in late August or early  
4 September, 1963.

5 There was a voter registration drive  
6 going on. The lines had been  
7 drawn, CORE workers on one side,  
8 perhaps the Registrar on the other  
9 side, some people attempting to get  
10 people to register to vote, others  
11 perhaps on occasion attempting to  
12 prevent these people from voting.

13 Gentlemen, we are not talking about a  
14 normal time in a small country town  
15 in the State of Louisiana, we are  
16 talking about a critical time, a  
17 time of tension, a time where every-  
18 one of necessity, everyone by nature  
19 becomes much much more observant of  
20 the things around him than he or  
21 she might be on other occasions.

22 One day, gentlemen, in that time period  
23 a black Cadillac pulled up just  
24 close to the Registrar's office in  
25 the City of Clinton.

1 There were many people present. One of 114

2 the persons present, gentlemen, was  
3 Mr. John Manchester, Town Marshal  
4 of Clinton, Louisiana. Now cer-  
5 tainly, gentlemen, if there was  
6 anyone who was keenly aware of the  
7 explosive or possibly explosive  
8 situation at the time, it was Mr.  
9 Manchester. And unfortunately  
10 sometimes these confrontations do  
11 explode, sometimes from persons not  
12 native to the area but from outside  
13 agitators for either side coming in  
14 and taking advantage of a tense  
15 situation and exploding it. So he  
16 was keenly aware, as the only local  
17 law enforcement agent in Clinton,  
18 Louisiana, at the time. He by his  
19 nature and certainly by his duty  
20 during that time was observant of  
21 any and all strangers that came  
22 into town. By his nature and duty  
23 he was equally observant of all  
24 strange automobiles that came into  
25 town. On this morning, gentlemen.

Reference copy, JFK Collection: HSCA (RG 233)

1 -- perhaps it was toward noon, I  
2 don't recall the specific time but  
3 certainly let me say at this time  
4 it is your memory of the facts that  
5 is important, it is not my appre-  
6 ciation of the facts or Mr. Dymond's  
7 appreciation of the facts, it is  
8 your appreciation of the facts --  
9 he went up to this black Cadillac  
10 car for a specific reason. He  
11 wanted to get a 1028 on it as they  
12 call it, he wanted to get some form  
13 of identification. Where were they  
14 from? Were they possible trouble-  
15 makers? Could they in any way  
16 inflame an already tense situation?  
17 He was keenly aware of this, gentle-  
18 men, and he went to this car and  
19 inquired of the man behind the  
20 wheel where he was from.

21 "We are from the International Trade

22 Mart in the City of New Orleans."

23 Now I wonder how many people in the City  
24 of Clinton, Louisiana, up until  
25 that point had ever heard of the

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International Trade Mart in the  
City of New Orleans. Mr. Manchester  
said that this was the first time  
he had ever heard of it. But he  
went further, gentlemen, and he  
positively and unequivocally and  
under oath identified that man  
there (indicating) as the driver  
of that automobile, the man who  
said he was from the International  
Trade Mart in the City of New  
Orleans.

Have you ever, gentlemen, thought of  
the probabilities of approaching  
a man in a strange town and having  
him say he is from the International  
Trade Mart in the City of New  
Orleans unless he is or unless he  
is in some way connected with the  
International Trade Mart? And we  
all know that in the summer of 1963  
he was connected with the Inter-  
national Trade Mart in the City of  
New Orleans. John Manchester  
positively identified the man, the

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Defendant before the Bar, as the man in that car.

And again, gentlemen, the State -- and I want to make this abundantly clear at this time -- the State is not wedded to the proposition, the State is not bound by the proposition, and the State is not asking you definitely to believe that that black Cadillac on that day belonged to Jeff Biddison, a long-time friend of the Defendant, but it certainly is a curious coincidence that the Defendant knows Jeff Biddison, has used Jeff Biddison's car, and it was a black Cadillac, 1960 or '61, and, as the witnesses said, a brand-new or apparently new automobile, shiny automobile. But the State is not saying necessarily that that was Jeff Biddison's automobile, because the State -- unfortunately no one on that occasion got the license number of that car so we could check it



1 down and tell you positively and  
2 stand behind it as to the owner of  
3 that automobile.

4 Henry Earl Palmer testified, gentlemen  
5 --and this is the man that Oswald  
6 was referred to by the barber, Mr.  
7 McGehee -- he testified that he  
8 arrived at his office and it was  
9 his duty to register those attempt-  
10 ing to register during this drive.  
11 Most of the registrants in line  
12 were Negroes. However, there were  
13 two white men, or white boys as he  
14 called them, in that line. One of  
15 these white boys in that line was  
16 Lee Harvey Oswald.

17 Mr. Palmer told you of going back and  
18 forth getting coffee, told you of  
19 seeing these two men in that line,  
20 one of whom he positively identi-  
21 fied as Lee Harvey Oswald. Mr.  
22 Palmer also told you that he told  
23 some law enforcement officer to  
24 get a 1028 or an identification on  
25 the black Cadillac.

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And Manchester told you that when he  
assured Palmer that the people in  
the black Cadillac, the two men in  
the black Cadillac, were not trouble-  
makers, they were from the Inter-  
national Trade Mart, he made a  
little joke up to the effect that,  
"They are no trouble, Henry Earl,  
they must be here to sell bananas."  
And this was testified to by Henry Earl  
Palmer, who also saw that black  
Cadillac, who also said that the  
Defendant before the Bar fit the  
general physical characteristics  
of the man behind the wheel of that  
Cadillac, the man who John Man-  
chester positively identified under  
oath on that stand, and he also  
said, gentlemen, that the other man  
in the automobile had bushy eyebrows  
and when Mr. Sciambra showed him a  
picture of David Ferrie, he said he  
looked similar. I am not trying to  
fool this Jury at all. He did not  
positively identify David Ferrie,

1 nor did he positively identify the 120  
2 Defendant, but he said the man had  
3 the same general characteristics  
4 of the Defendant.

5 You recall that when Mr. Palmer first  
6 came the black automobile was not  
7 there. You recall though that  
8 throughout the day as he made his  
9 trips the automobile was there the  
10 entire time until he left his  
11 office at 5:45 p.m. You will  
12 recall further that when he left  
13 his office Oswald had already been  
14 to him, Oswald had firmly identi-  
15 fied himself as Lee Harvey Oswald  
16 attempting to register to vote.

17 And here is further corroboration of  
18 both Lee McGehee and Mr. Morgan,  
19 because Oswald was curious about  
20 the necessity of registering to  
21 vote to get the job at the East  
22 Louisiana State Hospital, and he  
23 was assured that that was not  
24 necessary. He was turned down on  
25 his voting registration because he

1 could not show sufficient residence 121

2 in the Parish of East Feliciana.

3 Gentlemen, there again can be no doubt  
4 at all that Lee Harvey Oswald was  
5 in the barbershop, in Reeves  
6 Morgan's house, and he was in that  
7 voter registration line and he  
8 attempted to vote in Clinton,  
9 Louisiana, in late August or early  
10 September.

11 Now, gentlemen, that was essentially  
12 what you heard, and again from one  
13 side of the confrontation. The  
14 lines had been drawn. But there  
15 were also CORE workers who were  
16 attempting to have their people  
17 register, and I submit to you that  
18 they were just as conscious, maybe  
19 more so conscious than John Man-  
20 chester as to strangers in town,  
21 as to strange automobiles in the  
22 town, because they also were aware  
23 of the fact of a possible con-  
24 flagration, a possible explosion  
25 of a tense situation.

1 Corrie Collins took the stand in this

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2 court room under oath and posi-  
3 tively told this Jury some very  
4 important things, and I submit he  
5 had no reason to lie to this Jury.  
6 He saw that black Cadillac pull up  
7 with three individuals in it, two  
8 in the front seat, one in the back  
9 seat, and Corrie Collins positively  
10 said the man in the back seat got  
11 out of that automobile, went in the  
12 voter registration line and stood  
13 in that line to vote, and that  
14 individual positively was Lee  
15 Harvey Oswald, the man named as a  
16 co-conspirator with the Defendant.

17 But he said even more than that. He  
18 corroborates the fact that John  
19 Manchester was then in that area,  
20 he corroborates the fact that John  
21 Manchester went to the window of  
22 that automobile and spoke to the  
23 driver of the automobile, and this  
24 is exactly what Mr. Manchester  
25 said, and that is when the Defen-

Reference copy, JFK Collection: HSCA (RG 233)

1 dant told him they were from the  
2 International Trade Mart.

3 Corrie Collins went further. Corrie  
4 Collins was in a position to better  
5 see the individuals in the auto-  
6 mobile, and under oath and in a  
7 strange court room and in a strange  
8 city he positively and unequivocally  
9 and without any hesitation whatso-  
10 ever pointed out the Defendant  
11 before the Bar as the man who drove  
12 that automobile, and he identified  
13 a picture of David Ferrie as the  
14 man in that automobile. And he was  
15 conscious, gentlemen, of who was in  
16 the City of Clinton, what they were  
17 doing there, and what their reason  
18 was for being there.

19 He made a statement, gentlemen, that I  
20 think we can all remember. There  
21 were, because of the voter regis-  
22 tration drive, many Federal people  
23 apparently present, FBI, perhaps  
24 the Justice Department, and, frank-  
25 ly, he and Mr. Dunn, who testified

1 after him, thought that perhaps the  
2 parties in the automobile were from  
3 the Justice Department or the Federal  
4 Bureau of Investigation. When he saw  
5 John Manchester go to the car and  
6 inquire of the driver or speak with  
7 the driver, he made the statement,  
8 "They must be trading with the enemy."  
9 Because, gentlemen, at that time  
10 perhaps, and unfortunately so, at  
11 that time Mr. Manchester was probably  
12 the enemy to Corrie Collins and to  
13 William Dunn.

14 Mr. Dunn took the stand, gentlemen, and he  
15 corroborates the other witnesses in  
16 this case concerning the incident in  
17 Clinton, Louisiana. He was with or  
18 certainly saw Corrie Collins. He  
19 recalled the statement of Corrie  
20 Collins to the effect that they must  
21 be trading with the enemy. Gentle-  
22 men, this man had no reason to come  
23 into this courtroom and lie to you  
24 or to this Court. This man was con-  
25 cerned like the rest at that time

1 because of the tense situation, and  
2 he positively identified the Defen-  
3 dant before the Bar as the driver of  
4 that automobile, the same automobile,  
5 gentlemen, that Lee Harvey Oswald  
6 left to get in the voter registration  
7 line and to wait for his turn to talk  
8 to Mr. Palmer, and Mr. Palmer con-  
9 firmed the fact that Lee Harvey  
10 Oswald did in fact talk to him.

11 And as further corroboration, gentlemen --  
12 and I hope not to be too long, I  
13 don't want to go down and list wit-  
14 ness by witness by witness and give  
15 you a recapitulation or summary of  
16 everything they said, because you  
17 outnumber me, you heard twelve times  
18 as much as I did, and certainly it  
19 is what you heard, and it is your  
20 appreciation of the testimony, and  
21 it is the weight that you want to  
22 give to the witnesses on that wit-  
23 ness stand that counts, not what I  
24 say.

25 Mrs. Dedon confirmed the fact that Lee



1 Harvey Oswald did eventually go to  
2 the East Louisiana State Hospital  
3 and ask her for directions to the  
4 Administration Building, and the  
5 Administration Building was where  
6 the Personnel Office was where a man  
7 would attempt to seek employment at  
8 the East Louisiana State Hospital.

9 Mrs. Kemp testified that she saw Lee  
10 Harvey Oswald's application in the  
11 files of the East Louisiana State  
12 Hospital. And there is something --  
13 there is something curious about  
14 this, and it is another coincidence  
15 perhaps. She said that the file  
16 card had "Harvey Lee Oswald." Gentle-  
17 men, there is only one person in this  
18 courtroom during this trial who ever  
19 admitted to calling Lee Harvey  
20 Oswald "Harvey Lee Oswald," and that  
21 was the Defendant before the Bar  
22 when he gave his interview the night  
23 after he was arrested.

24 Now, what has the State shown by the pre-  
25 sentation of these witnesses from

1 Clinton, Louisiana? I think it has  
2 demonstrated, I think it did demon-  
3 strate beyond a reasonable doubt at  
4 that juncture the Defendant was a  
5 liar totally unworthy of your belief,  
6 that in fact he did know Lee Harvey  
7 Oswald, that in fact he did know  
8 David W. Ferrie.

9 Gentlemen, after the evidence from Clinton,  
10 Louisiana, the State put on the  
11 stand certain police officers who  
12 had arrested Lee Oswald, certain  
13 evidence as to the distribution of Fair  
14 Play for Cuba Committee Leaflets.  
15 You saw these leaflets. Marina  
16 Oswald testified that she put the  
17 stamp on the leaflet, "A. J. HIDEELL."  
18 You have seen the leaflets. The  
19 interesting one and the significant  
20 one, gentlemen, was June 16, 1963.

21 Officer Gaillot said that he asked Lee  
22 Harvey Oswald, who was passing the  
23 leaflets out, to leave the Dumaine  
24 Street wharf. But what is critical  
25 here, gentlemen, is the fact that he

1 seized some leaflets and they were  
2 identical to the ones taken from him  
3 on Canal Street, the one identified  
4 by Marina Oswald on June 16, 1963.

5 And they were significant for this reason:  
6 because the latter part of June, 1963,  
7 a State witness by the name of Vernon  
8 Bundy saw the Defendant and Lee  
9 Harvey Oswald on the Lakefront in  
10 this city, and, if you will recall,  
11 he said that he wrapped up his nar-  
12 cotics outfit in leaflets that said  
13 "FREE CUBA" or something of that  
14 nature. I showed him the leaflet  
15 taken from Lee Harvey Oswald earlier  
16 that same month, one of the leaflets  
17 taken from him earlier that same  
18 month, and he said it appeared to be  
19 the same.

20 Now let's consider the testimony of Vernon  
21 Bundy. Gentlemen, I want to make one  
22 thing abundantly clear. I do not  
23 apologize for Vernon Bundy or any  
24 witness that the State of Louisiana  
25 put on during this case. You take

1 your witnesses, gentlemen, as you  
2 find them. It would be fine if we  
3 had a lot of bank presidents come  
4 before you and tell you how they  
5 overheard the Defendant conspire to  
6 kill the President of the United  
7 States, but you are not going to  
8 find too many bank presidents associ-  
9 ating with Lee Harvey Oswald and  
10 David Ferrie and those of his stripe.

11 Vernon Bundy took that stand, gentlemen,  
12 and we elicited from him at the out-  
13 set that he was on the Methadone  
14 program designed to help addicts rid  
15 themselves of the habit of drug  
16 addiction. This man told Defense  
17 Counsel and the State from the wit-  
18 ness stand that he had been shooting  
19 narcotics for a long, long, long  
20 time. And he took this witness  
21 stand, gentlemen, and he said that  
22 he had gone to the Lakefront of this  
23 city, and that when he was on the  
24 seawall preparing his narcotics for  
25 injection, a black car pulled up

1 behind him.

2 Now, gentlemen, perhaps it is difficult --  
3 I know it is difficult for me, and I  
4 know it must be difficult for you --  
5 to put yourselves in the frame of  
6 mind of Vernon Bundy or any drug  
7 addict on the seawall. He is con-  
8 cerned with only one thing, and that  
9 is shooting the narcotics, protecting  
10 the narcotics and not letting the  
11 police sneak up on him and arrest  
12 him before he could dispose of the  
13 narcotics. The moment that car  
14 pulled up, gentlemen, you can be  
15 assured, and you were assured by  
16 Vernon Bundy, that his attention was  
17 riveted on that automobile as it was  
18 on the occupants of that car, who  
19 left the car and walked along the  
20 seawall.

21 And his attention was riveted for a good,  
22 good reason, and he told you that  
23 reason: he did not want this man to  
24 run up on him all of a sudden before  
25 he could jettison or throw his

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narcotics out into Pontchartrain Lake, 131  
because without the evidence the man  
could not be charged with possession  
of narcotics. And he riveted his  
attention on that man. He saw  
another man walk from the other end  
of the seawall or from the other  
direction. They met, and he in this  
courtroom and under oath positively  
identified the Defendant as the man  
that got out of the black Cadillac.  
Coincidentally, the Defendant was seen in  
a black Cadillac in Clinton in late  
August, early September, 1963.  
He saw him get out of that black Cadillac,  
approach the other man whom he posi-  
tively identified as Lee Harvey  
Oswald. He appeared to give him a  
roll of money. The State did not  
prove, and I am not attempting to  
tell you here that it was definitely  
and positively and beyond any possi-  
ble doubt a roll of money. He  
appeared to give him a roll of money,  
that is, the Defendant gave Oswald

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what appeared to be a roll of money, and when Oswald put this item, which appeared to be a roll of money, in his pocket, he dislodged some of these leaflets, the same leaflets that he had been distributing on the Dumaine Street wharf earlier that month, maybe a week or a week and a half before this incident.

And let us recall, gentlemen, that Vernon Bundy was seated on the top wall, or the top step rather, of the seawall. His position was down, and there is something that he noticed, something that frankly might have frightened him, as he said, somewhat. It was the strange gait or apparent limp of this man whom he identified as the Defendant before the Bar. Vernon Bundy graphically demonstrated to this Court and to this Jury while he was on that witness stand when he made that Defendant walk back to that door and then walk forward. Is there anyone in this courtroom or

1 anyone on this Jury that did not  
2 notice the peculiar gait of the  
3 Defendant? The Defendant himself on  
4 the witness stand admitted that he  
5 had that affliction in 1963 as a  
6 result of a dislodged disc in his  
7 back. This was but further corrob-  
8 oration of the testimony of Vernon  
9 Bundy in this case.

10 Again, gentlemen, when the Defendant makes  
11 the statement under oath that he did  
12 not know Lee Harvey Oswald, he is  
13 proven a liar and unworthy of your  
14 belief.

15 Gentlemen, again the State apologizes for  
16 none of its witnesses in this case,  
17 and I don't apologize at all for Mr.  
18 Charles Spiesel.

19 Mr. Spiesel took this witness stand under  
20 oath and testified that one night he  
21 was in Lafitte in Exile, and he saw  
22 a man whom he thought he served in  
23 the military of the United States  
24 with. He asked this man about the  
25 ferry service, and perhaps there was



1 a breakdown in communications, be-  
2 cause he thought the man said some-  
3 thing about ferry, but what he was  
4 saying was his name, "Ferrie" --  
5 F-e-r-r-i-e rather than f-e-r-r-y.  
6 He went back to the bar, gentlemen.  
7 Subsequent to this, this man David  
8 Ferrie, whom he positively identi-  
9 fied, a young male and two women  
10 asked him to go to a party in the  
11 French Quarter. He testified that  
12 David Ferrie's eyebrows were not as  
13 thick or as heavy as they appeared  
14 in the picture. You heard Perry  
15 Russo testify that oftentimes David  
16 Ferrie's eyebrows were not as thick  
17 as they appeared in that picture.  
18 You heard him also testify that there  
19 were occasions when David Ferrie's  
20 hair was not as mussed up or as un-  
21 sightly looking as it was on some  
22 occasions.

23 They went to an apartment, gentlemen, as  
24 he recalled it at the intersection  
25 of Dauphine and Esplanade Avenue in

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the City of New Orleans. They walked up, as he recalled it, two flights of stairs and went inside. There was a man who appeared to be the apparent host, and Mr. Spiesel positively identified that man as the Defendant before the Bar.

And he said here something else very interesting: It was not the Defendant's apartment but rather two people he knew, I think he said teachers, I am not sure, from North Carolina. The Defendant took the stand and said that he knew many, many people in North Carolina.

What are the odds, gentlemen, of Mr. Spiesel going to this party and having the host tell him that the apartment really belonged to two people from North Carolina? Fifty-to-one, since there are fifty states.

During the course of the evening when the two girls left with the young man that was with David Ferrie when they first approached Mr. Spiesel in the

1 bar, the conversation turned to  
2 President John F. Kennedy, and the  
3 sentiment was hostile and certainly  
4 anti-Kennedy. The suggestion was  
5 made that he ought to be killed.  
6 Was it made in jest? We don't know.  
7 At first, frankly, Mr. Spiesel did  
8 not take this conversation seriously.  
9 However, he did later on become some-  
10 what alarmed. The consensus of those  
11 at the table was that the President  
12 should be shot with a high-powered  
13 rifle from some distance away. He  
14 posed the possibility of the man  
15 doing the shooting getting captured  
16 or killed before he could escape  
17 from the scene of the shooting. It  
18 is at this point apparently that the  
19 Defendant injected himself into the  
20 conversation, although I assume he  
21 must have been part of the consensus  
22 spoken about by Mr. Spiesel earlier,  
23 and he inquired of David Ferrie of  
24 the possibility of flying this man  
25 to safety after the shooting of the

1 President.

2 And again, that is something that is  
3 curious and significant, because, if  
4 you will recall the testimony of  
5 Perry Russo, the principal portion  
6 of the conversation entered into by  
7 the Defendant was that which con-  
8 cerned exit or availability of  
9 escape, and this is the same portion  
10 of the conversation at this party in  
11 which he injected himself at that  
12 time.

13 Why does he remember the Defendant Clay  
14 Shaw and David W. Ferrie and no one  
15 else at the party? First of all, I  
16 submit, gentlemen, you have been  
17 here a long time, but if you had  
18 only been in here one day, one hour,  
19 or for ten minutes, and seen the  
20 Defendant before the Bar, he is not  
21 the type of person that you would  
22 readily forget. Because of physical  
23 stature, because of his hair and his  
24 general appearance and demeanor,  
25 Clay Shaw, gentlemen, is not easily

1 forgotten once you see him, and he  
2 was not forgotten by the witnesses  
3 who positively put him in the pre-  
4 sence of Ferrie and Oswald.

5 And there is another reason why Charles  
6 Spiesel remembered the Defendant  
7 before the Bar. You will recall he  
8 was looking for some work in the  
9 City of New Orleans. You will re-  
10 call that David Ferrie volunteered  
11 to help him in this regard, volun-  
12 teered to speak to this man who had  
13 a lot of pull, power or ability to  
14 help someone seeking a job, and that  
15 man was Clay Shaw, the Defendant  
16 before the Bar. You will recall  
17 that he attempted to contact the  
18 Defendant before the Bar, Clay Shaw,  
19 by telephone, but was unsuccessful.

20 Although he never saw the Defendant again  
21 after he left the party until he came  
22 into this court room, he did, however,  
23 see David Ferrie. These were the  
24 reasons that Mr. Spiesel remembered  
25 the Defendant, his friends from North

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Carolina, and he remembered David W. Ferrie at that party.

We went with Mr. Spiesel, gentlemen, down to the French Quarter of this city in an attempt to locate that apartment. Gentlemen, the probabilities are almost astronomical that this man could pick out an apartment house, not living in the City of New Orleans, that was -- that the apartment house next to it was identical. He picked out 906 Esplanade as one of the possible apartment houses. The very next apartment, 908 Esplanade, which is identical in appearance on the outside, was owned at that time, by the testimony of the Defendant, by the Defendant Clay Shaw. The probabilities, gentlemen, of that ever happening again are almost uncalculable.

Who is Charles Spiesel? I know Mr. Dymond will spend much time on Mr. Spiesel. I would just like to call to your attention certain basic facts.

1           Gentlemen, we are dealing here with  
2           truth, and this man was never con-  
3           victed of anything in his life. This  
4           man holds a responsible job in the  
5           City of New York. This man's employer  
6           knew of the suit he had filed against  
7           the City of New York and other defen-  
8           dants. This man's employer knew he  
9           was coming to the City of New Orleans  
10          to testify in this case. This man  
11          permitted Charles Spiesel to leave  
12          his work and to plead his case in the  
13          Federal Court. Charles Spiesel pre-  
14          pares corporate and personal income  
15          tax returns. Charles Spiesel has a  
16          very responsible job. Charles Spiesel  
17          has dealt in the formulation of spin-  
18          off corporations, and this is exceed-  
19          ingly complex work. He told you how  
20          down here in New Orleans he formed a  
21          system for certain jukebox companies  
22          while he was down here. He told you  
23          how he was in the military service of  
24          the United States and graduated with  
25          an honorable discharge, and of his

1 college background. And most impor- 141  
2 tantly, gentlemen, he told you he had  
3 never been convicted of anything.

4 And I submit, gentlemen, that Charles  
5 Spiessel told you the truth in this  
6 courtroom.

7 The coincidence of North Carolina, the  
8 coincidence of picking out the same  
9 exterior appearance of an apartment  
10 next door to an apartment owned by  
11 the defendant, are too much to over-  
12 come.

13 Gentlemen, sometime toward the middle of  
14 September, 1963, Perry Russo went to  
15 the apartment of David Ferrie. Now,  
16 Perry Russo had known David Ferrie  
17 for some time, at least for the  
18 summer of 1963 and into the early  
19 fall of 1963. David Ferrie had  
20 become obsessed with the assassin-  
21 ation of President Kennedy during  
22 that time period. He went to his  
23 apartment house one day and he saw  
24 a stranger in that apartment house  
25 on the porch, sitting, as he recalled



1 it, in the dark cleaning a rifle.

2 This man had what appeared to be at  
3 least a two or three-day growth of  
4 beard. He was introduced to this man  
5 as Leon Oswald. He positively iden-  
6 tified this man as Lee Harvey Oswald,  
7 but it is interesting to note that  
8 the first time he saw Lee Harvey  
9 Oswald he was doing something which  
10 apparently had become a habit with  
11 him, as testified by his wife or  
12 former wife, and that was to sit on  
13 the porch or in a dark room and clean  
14 and stroke his rifle. Marina Oswald  
15 Porter saw him do it many times at  
16 4907 Magazine Street in this city,  
17 and this is exactly what Lee Harvey  
18 Oswald was doing when Perry Russo  
19 first met him.

20 There is something else. Perry Russo and  
21 Lee Harvey Oswald apparently did not  
22 get along. To Perry Russo, Lee Harvey  
23 Oswald was an introverted person, a  
24 person that liked to be left alone,  
25 did not like to be part of a group

1 or socialize or talk too much, he  
2 liked to sit and read.

3 Again, gentlemen, this is corroborated  
4 completely by witnesses of the De-  
5 fense. We have the testimony of his  
6 own wife who said he was not a talka-  
7 tive person, did not like to join  
8 but liked to sit on the porch and  
9 read. We have the testimony of Ruth  
10 Paine, another Defense witness, who  
11 said the very same thing.

12 After this initial encounter, gentlemen,  
13 Perry Russo one night went to the  
14 apartment of David W. Ferrie in this  
15 city, 3330 Louisiana Avenue Parkway,  
16 and there was a gathering there.  
17 Some may call it a party, some may  
18 call it a meeting, some may just call  
19 it some people getting together and  
20 talking. You can put what label you  
21 choose on it. During the course of  
22 this get-together or meeting or  
23 gathering, David Ferrie paced ner-  
24 vously back and forth with clippings  
25 about President John F. Kennedy, and

1 he railed and he raved against the  
2 then President of the United States.  
3 When this party broke up, gentlemen,  
4 when this party was reduced in size  
5 to four people, David W. Ferrie, the  
6 Defendant before the Bar using the  
7 name Clem Bertrand, Leon Oswald or  
8 Lee Harvey Oswald, and intermittently  
9 Perry Raymond Russo, who said himself  
10 that he went in and out on occasions,  
11 the discussion, gentlemen, got much  
12 more serious. We hear such things as  
13 triangulation of cross-fire. We saw  
14 David Ferrie or heard that David  
15 Ferrie used this symbol (demonstrat-  
16 ing) for triangulation of cross-fire.  
17 We heard such things as a discussion  
18 of the necessity of using three but  
19 at least two people in the shooting  
20 of the President of the United States.  
21 We also heard that one of these  
22 persons would have to be a patsy or  
23 a scapegoat or be sacrificed so the  
24 others could get away.

25 Again during the course of this meeting,

1 during the course of this discussion, 145  
2 the Defendant spoke up, again and  
3 again he spoke up as he had done in  
4 June of that same summer, about avail-  
5 ability of exit and about escape and  
6 about the possibility of the man doing  
7 the shooting getting killed. It was  
8 discussed that perhaps direct flight  
9 to Cuba might be possible, it was  
10 discussed that this might not be  
11 feasible or possible or safe and  
12 that maybe a flight to Mexico and  
13 then on to Brazil where extradition  
14 could not be had (would be necessary).

15 It was decided, gentlemen, during the  
16 course of that meeting that some of  
17 the participants in this conspiracy  
18 would not be at the scene of the  
19 shooting, some of the participants  
20 in this conspiracy would make them-  
21 selves obvious at other locations so  
22 as to make an alibi more believable,  
23 so as to form an alibi for themselves.  
24 The Defendant was going to the West  
25 Coast. If you will recall, gentle-

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men, the testimony of the Defendant on this witness stand, he knew by mid-September when this meeting allegedly took place that he was going to the West Coast of the United States. David W. Ferrie was going somewhere else to establish an alibi. David W. Ferrie ended up in Houston, Texas, and you heard Mr. Rolland testify about the bizarre activity of David W. Ferrie in that ice rink. I submit that you gentlemen use your own experience, apply your own common sense. Would you if you went to this skating rink repeatedly, as many as five times, go up to the manager of that skating rink and keep introducing yourself or interjecting your name in the conversation? I submit you wouldn't unless you had a purpose, and he had a purpose, and that purpose was to let everyone know that I am David Ferrie and here I am in Houston, Texas.

And the Defendant in fact did end up on

1 the West Coast, and Lee Harvey Oswald 147  
2 did in fact end up in Dealey Plaza in  
3 the Texas School Book Depository, and  
4 he did in fact take a gun with him to  
5 the Texas School Book Depository as  
6 the State alleged, and the State  
7 frankly had to prove it circumstan-  
8 tially.

9 This conversation was characterized during  
10 Russo's testimony by himself -- and I  
11 don't deny it, I don't deny the  
12 State's own witness characterized it  
13 as a "bull session," characterized it  
14 as never having referred to any of  
15 the participants as "conspirators."  
16 But, gentlemen, his characterization,  
17 my characterization, Mr. Dymond's  
18 characterization is not important,  
19 it is your characterization that  
20 counts. And when you do consider  
21 that point, I fervently ask you to  
22 consider the fact that David Ferrie  
23 did end up in public making himself  
24 known, that the Defendant before the  
25 Bar did end up on the West Coast of

1 the United States, and how in the  
2 world is Perry Russo going to know  
3 that the Defendant was going to the  
4 West Coast of the United States? How  
5 in the world could he know this? How  
6 in the world could he dream this up?  
7 And that one of the participants in  
8 this conversation, in this conspira-  
9 torial meeting, ended up in the Texas  
10 School Book Depository in Dallas,  
11 Texas, and did in fact take a gun in-  
12 to that Depository on that morning.  
13 That certainly, gentlemen, throws an  
14 entirely different light on this con-  
15 versation. This conversation was  
16 not -- did not take place in a  
17 vacuum, but everything said in this  
18 conversation was actually carried out  
19 by all of the participants of that  
20 conversation.

21 The State showed you in the testimony of  
22 Mr. Frazier that Lee Harvey Oswald  
23 did in fact take a package with him  
24 into the Texas School Book Depository  
25 on the morning of November 22, 1963.

1 Breaking a ritual that he had with  
2 Mr. Frazier of returning on weekends,  
3 he returned home the night before the  
4 President was assassinated, and he  
5 carried a package approximately two  
6 feet or over long. He told you that  
7 he had broken down his own rifle in  
8 the military service, and it broke  
9 down to as low as twenty inches. He  
10 identified a package that was similar  
11 to the package taken by Lee Oswald  
12 into that Depository on that fateful  
13 morning. Lee Oswald told him that  
14 it was curtain rods. Lee Oswald is  
15 not our witness, Lee Oswald is a  
16 named conspirator with the Defendant.

17 Now let's see what the Defense's own wit-  
18 nesses had to say about these curtain  
19 rods. Mrs. Paine categorically tes-  
20 tified that she heard no mention of  
21 curtain rods that morning, but she  
22 did testify to the fact that she  
23 went to the garage and found strangely  
24 that the garage light was left on,  
25 and there was Lee Harvey Oswald



1 where Lee Oswald had kept his gun.  
2 Marina Oswald testified, and, as I  
3 recall the testimony of Mr. Frazier,  
4 Lee Oswald said his wife, Marina,  
5 got him curtain rods to take to the  
6 Texas School Book Depository, to his  
7 apartment in Oak Cliff, and his wife  
8 categorically testified that she did  
9 not bring him any curtain rods ever  
10 for his apartment in Oak Cliff, that  
11 he never asked her for curtain rods,  
12 that she never saw curtain rods in  
13 anyone's possession least of all the  
14 possession of her husband, Lee  
15 Oswald.

16 I submit to you, gentlemen, that when he  
17 rode to work that morning he took  
18 the gun from the garage, and when  
19 the police came there the following  
20 day they were unable to find it in  
21 the package it was in or the wrapping  
22 it was in because he had taken it  
23 that morning. Marina Oswald also  
24 testified that she did in fact see  
25 him go to that garage on numerous

1 occasions that night.

2 So, gentlemen, this conversation taken by  
3 itself, and frankly and honestly  
4 styled or categorized or classified  
5 by a State witness as perhaps a "bull  
6 session," certainly turned out to be  
7 more than any bull session.

8 Gentlemen, Perry Russo saw Leon Oswald or  
9 Lee Oswald once or twice more in the  
10 apartment of David Ferrie, and the  
11 last time he saw Lee Oswald in that  
12 apartment Lee Oswald was going some-  
13 where, apparently making a trip, and  
14 he said he was going to Houston,  
15 Texas.

16 Now I want you to recall the testimony of  
17 the Defense's own witness, Ruth  
18 Paine, who testified that when she  
19 spoke to Lee Oswald just before  
20 taking his wife and baby back to  
21 Irving, Texas, he told her he was  
22 going to look for work in Houston  
23 or Philadelphia, Pennsylvania, as  
24 Perry Russo corroborated.

25 What are the probabilities of that coming

1 about unless it really happened, one  
2 witness living in New Orleans, one  
3 living in Irving, Texas today, and  
4 she said Houston, Texas, and Perry  
5 Russo said he said he was going to  
6 Houston, Texas.

7 Perry Russo, gentlemen, said that he had  
8 seen the Defendant on the Nashville  
9 Street wharf when President John F.  
10 Kennedy spoke there in 1962. He re-  
11 called the Defendant specifically,  
12 because the Defendant apparently was  
13 not looking at all times at the  
14 President of the United States, who  
15 was making a speech, and that he was  
16 positioned somewhat back towards the  
17 end of the crowd, and this is where  
18 Perry Russo saw him first.

19 The Defendant took the stand and admitted  
20 he was at the Nashville Street wharf.  
21 When did Perry Russo make this statement  
22 that he was on the Nashville Street  
23 wharf? Perry Russo made this state-  
24 ment on the very first contact by  
25 Mr. Andrew Sciambra of our office,

1 February, 1967. How on earth did  
2 Perry Russo know that the Defendant,  
3 Clay Shaw, was on the Nashville  
4 Street wharf unless as a matter of  
5 fact he saw him on the Nashville  
6 Street wharf? How did he know that  
7 the Defendant was standing in the  
8 rear of the crowd unless he had seen  
9 him in the rear of the crowd, and  
10 how did he know that he was not  
11 always looking at the President but  
12 appeared to be looking at others,  
13 unless he saw that?

14 Now, Mr. Dymond's argument will be the  
15 Defendant admitted all this. Gentle-  
16 men, the Defendant sat here and  
17 heard the testimony of Perry Russo.  
18 Is it logical to you that the Defen-  
19 dant would admit this knowing that  
20 this corroborated 100 percent the  
21 testimony of Perry Russo? And at  
22 first blush when you think of it, it  
23 sounds like a fairly good argument,  
24 but I want to remind you gentlemen  
25 that he well knew that the State had

1                   rebuttal witnesses, that the State  
2                   had a right to rebut the case of the  
3                   Defense, and he didn't want to get  
4                   caught flatfooted in an obvious lie,  
5                   because they didn't know who we had  
6                   for rebuttal witnesses.

7                   He also well knew that there were probably  
8                   many cameramen in and around the  
9                   Nashville Street wharf on that  
10                  occasion, and should the Defendant  
11                  lie, he would be caught in a picture  
12                  lying.

13                  Gentlemen, ask yourselves, how could  
14                  Perry Raymond Russo know in 1967  
15                  that he was on the Nashville Street  
16                  wharf when the President spoke there  
17                  unless he saw him?

18                  He also saw the Defendant at David  
19                  Ferrie's gas station out on the  
20                  highway, and he testified to this.  
21                  Mr. Dymond will say that the State's  
22                  case rises or falls upon the testi-  
23                  mony of Perry Raymond Russo, and  
24                  essentially I agree, but where is  
25                  Perry Russo corroborated? He is

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corroborated by the fact that David Ferrie and Lee Harvey Oswald and the Defendant were acquainted, were seen with each other and knew each other, contrary to what he says and contrary to what he said in his opening statement. He is corroborated by the fact that in fact he was on the Nashville Street wharf. He is corroborated by the fact that their own witness -- that their own witness -- said that he was going to Houston, Texas, and in fact that is exactly what Lee Oswald had told him, they were going to Houston, Texas, or he was going to Houston, Texas.

He is corroborated by more than that.

Remember, gentlemen, that during the course of this meeting, during the course of this conspiratorial meeting, the Defendant used the name Clem Bertrand, C-l-e-m Clem Bertrand.

Gentlemen, Mr. James Hardiman, a postman of long service in this city, took that witness stand and under oath

1 positively testified that when he  
2 was delivering letters addressed to  
3 Clay Shaw at 1313 Dauphine Street, at  
4 1414 Chartres Street from 1313  
5 Dauphine Street, at that very time he  
6 delivered at least five, or enough  
7 to call his attention to the fact  
8 that he had delivered letters to  
9 Clem Bertrand, the same name used by  
10 the Defendant in this conspiratorial  
11 meeting.

12 And, you know, it is a strange thing, and  
13 perhaps it is just another coinci-  
14 dence, but, gentlemen, these coinci-  
15 dences just can't keep piling up  
16 without painting a true picture. Who  
17 lives at 1414 Chartres Street? Jeff  
18 Biddison. How long has he known the  
19 Defendant, Clay Shaw? Twenty-three  
20 or twenty-six years, I can't recall.

21 Now, was there any evidence presented  
22 that Mr. Hardiman knew that the resi-  
23 dents of 1414 Chartres Street even  
24 knew the Defendant before the Bar?  
25 Why would he pick that address and

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come into this Court and say he had delivered letters to Clem Bertrand to that address unless in fact he had done it? 1414 Chartres Street meant nothing to Mr. Hardiman other than the fact that that was the address that he delivered letters to Jeff Biddison, but he did not know, gentlemen, of the relationship or the association of Jeff Biddison and the Defendant before the Bar. He testified that the letters were addressed directly, that is, to 1414 Chartres Street, and -- I don't want to confuse the Jury -- that the letters were first addressed to 1313 and then forwarded to 1414, because that is not the way I recall the testimony. They were addressed directly to 1414, but these letters only arrived -- these letters were only delivered to that address at the same time that this man was delivering mail addressed to Clay Shaw at 1313 and forwarded to 1414.



1 And what fantastic explanation does the  
2 Defendant give to this under oath  
3 and expect you to believe it? He is  
4 trapped. He cannot deny that there  
5 was a cancellation of a change of  
6 address on September 21, 1963, be-  
7 cause it is right there in the  
8 record. 1966, I am sorry. Which  
9 again is an interesting date, be-  
10 cause, gentlemen, this is before the  
11 investigation of the District Attor-  
12 ney's office even became public. In  
13 fact, it is before the District  
14 Attorney started his investigation.  
15 The Defendant said -- and this is the  
16 most curious statement I have ever  
17 heard in my life -- he said he did  
18 not execute a change of address for  
19 the delivery of mail from 1313 to  
20 1414 Chartres Street. He was sure  
21 on this point. Yet he executes a  
22 cancellation of something that  
23 doesn't exist, and the only reason  
24 he admitted doing that was because  
25 it was right there in black and

1 white in that record, and I submit  
2 to you, gentlemen, that that mail  
3 was in fact delivered during that  
4 time, and you will also recall that  
5 the Defendant actually took up resi-  
6 dence at that location for a week or  
7 two before he could get back into  
8 his 1313 address.

9 Is this just another coincidence? How  
10 common is the name Clay Bertrand? Is  
11 this just another coincidence, gen-  
12 tlemen, along with the many other  
13 coincidences, or does this begin to  
14 give us a picture?

15 Gentlemen, Mrs. Jessie Parkerson took  
16 this witness stand, and you will  
17 recall that she was the hostess at  
18 the VIP Room, the Eastern Air Line  
19 VIP Room at Moisant International  
20 Airport. She testified that on  
21 December 14, 1966 -- again before  
22 any mention in the public media of  
23 the investigation by the District  
24 Attorney's office -- the Defendant,  
25 whom she positively identified, came

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1 into that room with another man and  
2 signed the VIP book "Clay Bertrand."  
3 The Defendant took the stand and  
4 positively denied this act, posi-  
5 tively denied the use of any alias  
6 in his life with the exception of the  
7 use of a name for writing a play.  
8 She remembered the Defendant, among  
9 other things, because of his pretty  
10 hair, as she put it.

11 The Defendant, gentlemen, signed the book,  
12 for what reason we don't know. I  
13 think it is reasonable to assume  
14 that perhaps he might have been sign-  
15 ing it for someone to come later on  
16 as a message. I don't know why he  
17 signed the book, but I believe Mrs.  
18 Parker that he did sign that book  
19 "Clay Bertrand," and when he signed  
20 it, he looked over at her and kept  
21 looking at her, and he wasn't seated  
22 but standing at this time when he  
23 signed that book. He was not sign-  
24 ing his own name but signing a fic-  
25 titious (name) or alias. Does it

1 seem logical to you that he would  
2 use his normal handwriting on this  
3 occasion? Does it seem logical to  
4 you that he might not try to dis-  
5 guise his normal handwriting on this  
6 occasion?

7 You have heard from two experts who have  
8 conflicting opinions as to whether  
9 or not that signature "Clay Bertrand"  
10 was made by the Defendant before the  
11 Bar, but we have a woman, gentlemen,  
12 who saw him make it and who took a  
13 lie detector test on that very point.

14 The Defense put on an expert who examined  
15 photographs of the questioned signa-  
16 ture, admitting frankly that this  
17 was not the best procedure to follow,  
18 but there is something else about  
19 the expert of the Defendant that  
20 should be taken into consideration.  
21 Can there be any doubt in the mind  
22 of any juror here that this man, Mr.  
23 Appel, on that witness stand did not  
24 say that he had a fixed opinion about  
25 this case before he rendered his

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judgment or decision on that hand-writing specimen? He had a fixed opinion. He was coming down, as he put it, for the cause of justice.

"Do you know anything about the case?"

"No."

"Well, what are you talking about 'justice'?"

"Well, I was coming down here because of justice, I didn't want an injustice done."

You know that this man had a fixed opinion when he rendered his decision on that point.

The State's expert frankly admitted she intended and hoped to get paid. The State's expert did not have a fixed opinion in this case. The State's expert did not have time to give you a blow-up of the questioned signature next to the true exemplar or sample signature, but I found it entirely curious that the expert for the Defense blew up but one, one sample out of thirteen, D-30 through D-34, for you gentlemen to view. You had an

1 opportunity, at the request of the  
2 State, to view D-30 through D-43.  
3 You had an opportunity to view Mr.  
4 Appel on the stand, and you had an  
5 opportunity to view Mrs. McCarthy on  
6 the stand.

7 I submit, gentlemen, that Jessie Parker  
8 was telling the truth when she testi-  
9 fied that the Defendant signed the  
10 VIP book.

11 I see I am going much longer than I had  
12 anticipated.

13 Gentlemen, yesterday on rebuttal you  
14 heard from Mr. and Mrs. Tadin. They  
15 testified that they in fact saw the  
16 Defendant and David Ferrie at the  
17 airport, and they knew David Ferrie  
18 because they were concerned about  
19 him being with their son, who was  
20 deaf. Mr. Tadin also, since he works  
21 in the French Quarter as many as six  
22 nights a week, also had seen and  
23 knew the Defendant before the Bar,  
24 and as soon as he saw him with David  
25 Ferrie, he commented to his wife

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exactly who he was, and his wife took the stand, gentlemen, and said that they were in fact together.

Mr. Dymond brought out that the first time they came to us was yesterday. I was somewhat disappointed that they hadn't come to us sooner, but I don't think, gentlemen, that they were lying, and it is up to you to weigh their credibility. Mr. Tadin made one of the truest statements made throughout this trial. Using a cross-examining trick, Mr. Dymond asked Mr. Tadin, "Do you ever lie?"

If Mr. Tadin had answered "Never", I doubt if many of you gentlemen would have believed him, but he answered modestly that yes, yes, he lied, that most people lied, but that he was telling the truth, and that he knew he was under oath and he was telling the truth, and as he told the truth this man was proven a liar again and again and unworthy of your belief.

1 Mrs. Jessie Garner took the stand for the 165  
2 Defense, the landlady of Lee Harvey  
3 Oswald, and there crept into the  
4 record a very curious thing. David  
5 W. Ferrie was over at the apartment  
6 of Lee Harvey Oswald one night short-  
7 ly after the assassination. She  
8 couldn't recall whether it was the  
9 night of the assassination or short-  
10 ly after the assassination, and I  
11 submit it was shortly after the  
12 assassination. How did David Ferrie  
13 know where Lee Harvey Oswald lived  
14 in the City of New Orleans? You  
15 would have a different proposition  
16 if David Ferrie were a Dallas resi-  
17 dent and after the announcement on  
18 television and so forth he went to  
19 the home of Lee Harvey Oswald in  
20 Dallas, but how did he know where he  
21 lived here in New Orleans four months  
22 before? And Mrs. Garner, again a  
23 Defense witness, a woman that they  
24 vouch for, said that Lee Harvey  
25 Oswald's apartment was filthy, that



1 the sink was torn up and the toilet  
2 was torn up and it was generally  
3 filthy, and that the mattress was  
4 filthy, and yet they want you to  
5 believe that this man literally  
6 carried a Norelco shaving outfit  
7 along with him, never had a beard,  
8 despite the fact that Marina Oswald  
9 herself testified that there were  
10 days that Lee Harvey Oswald did not  
11 shave. Marina Oswald, frankly,  
12 gentlemen, could not recount to you  
13 the movements of Lee Harvey Oswald --  
14 and for good reason. How much did  
15 Lee Harvey Oswald confide in his  
16 wife? Before coming here to the City  
17 of New Orleans she didn't even know  
18 where he was employed, had no tele-  
19 phone number to contact him. Coming  
20 to the City of New Orleans, gentle-  
21 men, she knew one language, and that  
22 was Russian; she was pregnant, expect-  
23 ing a baby. Lee Oswald had told her  
24 never to go into his belongings, and  
25 she abided by that. Gentlemen, she

1 attempted one day pathetically to  
2 find her husband by going to the  
3 coffee company where she thought he  
4 might have worked, and it was the  
5 wrong one. And you know why it was  
6 the wrong one, because Lee Oswald  
7 never told her where he worked, he  
8 never gave her a phone number, he never  
9 talked about anybody he met at work,  
10 he never told her about the post  
11 office box, he never told her where  
12 it was located. She did not have a  
13 key to the post office box. Frankly,  
14 gentlemen, she didn't know what Lee  
15 Harvey Oswald was doing.

16 And there is one other point I would like  
17 to bring out in connection with her  
18 testimony. She on the witness stand  
19 said the farthest back she would put  
20 the firing of Lee Harvey Oswald would  
21 have been approximately one month  
22 before they left the City of New  
23 Orleans, and they left the City of  
24 New Orleans on September 23. That  
25 would have made it August 23, 1963.

Reference copy, JFK Collection: HSCA (RG 233)

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Lee Harvey Oswald was fired from the Reily Coffee Company July 19, 1963. This is how much Marina Oswald knew about the activities of Lee Harvey Oswald.

Gentlemen, I haven't gone into all of the testimony of all of the Defense witnesses. Presumably, Mr. Dymond will highlight their testimony, and I will be back in front of you again for I hope a period not this long, to rebut his arguments about what their witnesses said. So I at this time will not go into the testimony of many of the Defense witnesses.

I think that the State generally has proven its case beyond a reasonable doubt, and has proven him an absolute liar and unworthy of your belief, and absolutely guilty in this case, and I will ask this Jury, after serious deliberation for both sides, to return a just verdict, and I feel that verdict will be guilty as charged.

1 Thank you very much.

2 THE COURT:

3 We will take a recess. Take the Jury  
4 upstairs. We will take a five-  
5 minute recess.

6 (Whereupon, a brief recess was taken.)

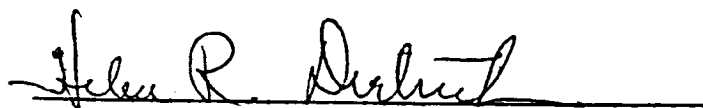
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C E R T I F I C A T E

I, the undersigned, Helen R. Dietrich, do hereby certify:

That the above and foregoing (Pages 103-169 of typewritten matter) is a true and correct transcription of the stenographic notes of the proceedings had herein, the same having been taken down by me and transcribed under my supervision, on the day and date hereinbefore noted, in the Criminal District Court for the Parish of Orleans, State of Louisiana, in the matter of State of Louisiana vs Clay L. Shaw, 198-059 1426 (30) Section "C" on the 28th day of February, 1969, before the Honorable Edward A. Haggerty, Jr., Judge, Section "C", the same being an excerpt of the proceedings as to certain portions of argument.

New Orleans, Louisiana, this 16th day of January, 1971.



HELEN R. DIETRICH  
REPORTER

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