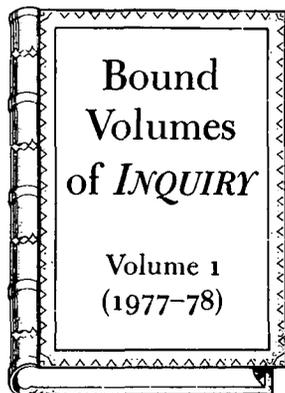


rhetoric and the reasons why conventional liberalism is in such bad shape; he knows almost instinctively that the assumptions of unlimited economic and social growth that once sustained conventional liberalism can no longer be taken for granted. At the same time he is incapable of making the choices that the realization requires: He offers semimystical futures in space, a metaphorical "era of limits" on earth, and a great many little political chips and mirrors in place of vision.

It has been pointed out that even after nearly four years in the White House Jimmy Carter is still running against Washington. Just as accurately it can be said that after nine years as a high state official—four as secretary of state, five as governor—Jerry Brown still runs against government. In that respect he resembles superficially the man he seeks to replace. Yet while Carter's rhetoric is ultimately skin deep, Brown's contempt runs to his very marrow. Carter really would like to be president if only he knew how. Brown is running only because the compulsion of the political critic—the public prophet—drives him to it. If, by accident or inadvertence, he ever comes close to the White House, he will find a way to rise above it. □

HANDSOME



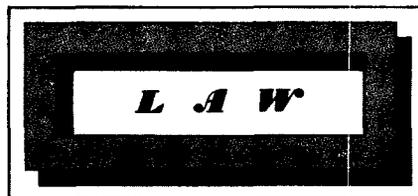
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CLAUDIA WRIGHT

Toying with extradition

THE STATUE OF LIBERTY is still standing out there, asking for "your tired, your poor, your huddled masses yearning to breathe free." But in practice we only want some of them. Any Soviet, regardless of whether he has any salable skills, money, or even American relatives, is always welcome. So are Cubans. Haitians, however, are beyond the pale. The shah can come here, but his youthful former subjects can expect public abuse at best and deportation at worst. Israeli Jews are protected, but Palestinian Arabs are not. Ask 19-year-old Ziad Abu Ain, a native of Israeli-occupied Jordan now sitting in the Cook County jail. Ziad faces extradition to Israel on charges of murder and terrorism, and he may well have to go back—not because of the flimsy evidence the Israelis have been able to produce against him, but because the U.S. State Department wants to prove a point.

The Israeli government alleges in its formal request that on May 14, 1979, Ziad was responsible for placing a bomb that was detonated in Tiberias, a city on Israel's Sea of Galilee; it killed two people and injured thirty-six. The evidence against Ziad is a confession given by a friend of Ziad's to Israeli interrogators after several weeks in prison. The only other evidence the Israeli authorities have sent to the United States is a statement by a young woman who told police that she had carried letters between Ziad and his friend—without knowing what they said—and had been the go-between for the friend and a Fatah official in Syria. Both thought Ziad was safe at his sister's house in Chicago when they made their statements without le-

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gal counsel, witnesses, or translators.

* * *

International extradition is a tricky and ill-defined area of American law. The leading case involves a Yugoslav request in 1951 for the extradition of a Croatian accused of ordering the murder of thousands of civilians in 1941-42 during the short-lived Ustachi regime. After eight years of litigation the courts denied the request. One reason was that the evidence against the accused, collected in a Yugoslav hearing, was hearsay and thus considered unreliable. The American judge said he thought the Yugoslav court had pressured the witnesses into making unsubstantiated allegations. The second reason was that whether or not the Croatian had committed the crimes, what he had done was "of a political character and therefore not extraditable under the treaty."

The court wrestled with the problem of defining this "political character," and decided that "it is an offense against the government itself or incident to political uprisings." The fact that the murders were of civilians was not considered relevant either way. For Andrija Artukovic, who had been a minister of internal affairs (security) in the independent state of Croatia, extradition was avoided because the crimes he was charged with were "in furtherance of one side or another of a bona fide struggle for political power."

Artukovic's case was decided in 1959. Last May, just three days before the explosion in Tiberias, the federal district court in San Francisco reiterated the exception for political offenses in refusing a British government request for the extradition of Peter McMullen, a Provisional IRA member wanted for the bombing of the Claro army barracks in 1974. In a decision that apparently took both the British and the U.S. governments by surprise, the judge found that the IRA conducted "terrorist or guerrilla activities," but that these were "acts of political violence with a political end."

Once the defendant offered the evidence that his activities were covered by the political exception, the court told the government, the burden of proof shifted to the prosecution to rebut it. As neither the British extradition documents nor the U.S. Attorney offered any rebuttal, McMullen was safe. "Even though the offense be deplorable and heinous," the judge ruled, "the criminal actor will be excluded from deportation if the crime is committed under these [political] prerequisites." Subsequent events indicate that shortly afterward the State Depart-

ment's Office for Combating Terrorism and members of the cabinet-level Special Coordination Committee on Terrorism resolved that this ruling could not be allowed to stand. And so in September the Ziad case was singled out for a special effort to knock down the *McMullen* rule and perhaps erase once and for all the political exception to extradition requests.

THE EXTRADITION REQUEST from Jerusalem declares that Ziad crossed into Jordan on June 5 and "is believed to have travelled to the United States shortly afterwards, using a Jordanian passport." Attached were a photograph, fingerprints, and two statements given in prison to Israeli interrogators by Jamal Yasin, a friend of Ziad's, and Mufida Jaber, Yasin's cousin. According to the first confession, Ziad had driven Yasin's car to Tiberias on May 14 and planted the bomb that Yasin had given him. He drove up from Ramallah (a 90-mile trip), set the bomb's timing device for 1:30 P.M., and arrived back at Yasin's house by 4:30. Yasin told police that he gave Ziad a ride home at 5:30. The second statement adds nothing to this story, confirming only that after May 14, Jaber carried messages between Yasin and Ziad until Ziad left for Chicago.

Ziad's attorneys presented the court with nine sworn affidavits from Ziad's father and brother, four workers in the family factory and shop, a lawyer, two doctors, and the president of the Ramallah Islamic Club. These corroborated Ziad's account of his movements for every hour of the day, except between 6:30 and 8:30 P.M., several hours after the explosion occurred. His brother's wife had given birth in the early afternoon at Ramallah Hospital, and he had been on call at his father's shop from early morning until the celebrations began at 3 P.M.

When the extradition request was presented to U.S. Magistrate Olga Jurco, no evidence to support Yasin's statement was available from the Israeli government or the U.S. Attorney. There were no witnesses who had seen Ziad in Tiberias that day, no records of his transit, nothing to confirm the use of Yasin's Volkswagen, no evidence that Ziad had been with Yasin in the morning or evening, nor any corroboration of the claim that he planted and set Yasin's bomb.

* * *

Hearings began on September 6. A request by Ziad's lawyer to take a fresh deposition from Yasin in prison, with government attorneys present, was re-

fused by the judge as "beyond the scope of the jurisdiction of this court."

Under current American extradition law, the court must decide two issues. The first is whether there is probable cause to think that the wanted man committed an indictable crime. This issue must be decided under the rules of evidence and the applicable law of the country where the proceedings are held, not the country seeking extradition. If the foreign court might convict the accused for something that isn't a crime in the United States—for belonging to a Palestinian political organization, for example, which is a crime in Israel—or if the United States doubts that the foreign legal process would be free of bias, duress, or torture, then the American court and the Secretary of State have some discretion in refusing extradition.

already under review by the judiciary branch in order to determine whether Mr. [Ziad] Abu Ain is extraditable," the State Department would not intervene until "the decision of the court."

A third version emerges from testimony given in court and from conversations with government officials and defense attorneys. This suggests a public hands-off position, combined with vigorous attempts at covert pressure on the court. The extradition request went initially to State Department attorney Knute Malmborg. He called in Louis Fields, an associate in the same office whose title is assistant legal adviser for special functional problems. His problems are terrorism and narcotics.

Fields has had a twelve-year career in the government, specializing at first in what he called "economic warfare" in

The State Department set up a network of reporting on Arab students' "suspicious" activities.

The second issue is whether the alleged crime comes under the political exception. The legal authorities have emphasized that in considering this, the court must decide for itself. In the *McMullen* ruling, for instance, the judge said: "We do not look to the Executive arm of the government, particularly the State Department, for a determination as to what this government considers an act of political offense . . . on the soil of a foreign nation." Thus, the courts have recognized that what looks like a common crime or terrorism from one perspective may be a political act or insurrection from another. To decide which applies in the individual case, the American courts have told the government that its opinions have no special relevance or authority.

There are several different accounts of how the State Department got involved in the Ziad case. An official from the department's Office of the Legal Adviser, who would not speak for the record, said that Magistrate Jurco had requested testimony from his department. If that's true, the court will have committed a serious error that would be overturned on appeal. More circum-spect, David Korn, the director of the department's Office of Israel and Arab-Israeli Affairs, implied in a letter on September 20 that because "the case . . . is

Vietnam, and then, in the department's Legal Adviser's Office, in counterterrorism. By his own account, he has been the legal counsel to every director of the Office for Combating Terrorism since its inception. As this office grows more powerful during the Carter administration, Fields has overseen the preparation of tough antiterrorism legislation in Congress and of U.S. efforts to coordinate its measures with those of other governments.

OVER REPEATED OBJECTIONS to his testimony by the defense lawyers—overruled by the magistrate—Fields testified for the government on October 10 and 11. In his view, the May 14 bomb attack was a clear-cut case of terrorism. He testified that the U.S. government considered it indiscriminate murder of civilians. He himself believes that Ziad is guilty. As he told the court, the government has determined that the political exception does not apply in this case, and shouldn't apply to any case of terrorism.

However, as Ziad's attorney Abdeen Jabara argued, the Congress has yet to pass legislation defining precisely what it means by terrorism. In the absence of a vote, there is no statute to make the crucial distinctions that are the key to Ziad's fate. He is from Palestinian terri-

tory occupied—without international legal recognition—by Israeli forces, and he is also a citizen of Jordan, which is still formally at war with Israel. By the terms of *McMullen* and the earlier court decisions, this means Ziad qualifies for the political exemption from extradition. (And if he is indeed a member of Fatah, as the Israeli-obtained confession says, it would only strengthen Ziad's claim to the political exemption.)

But when Jabara tried to introduce evidence and expert testimony on the political character of the Arab-Israeli conflict, on the history of Zionism, and on the PLO, the government objected, and Jurco refused to accept the evidence. When Jabara tried next to interrogate Fields on the government's interpretation of the conflict in Palestine and of the PLO, he was blocked again. When he tried to have the court direct the Israeli government to identify whether any of those killed or wounded in the explosion were regular or paramilitary forces, the court denied the request point blank. This may have been a serious error, for the terrorism bill pending in Congress expressly excludes from its definition of terrorism acts "committed in the course of military or paramilitary operations directed essentially against military forces or military targets of a state or an organized armed group."

Jabara says that the State Department's intervention in the Ziad case is without precedent. And the pressure has been so intense on Magistrate Jurco that at one point she appeared to concede her role as an element of the prosecution: "I believe that insofar as my hearing the evidence in this case, I do this, of course, for the Department of State and the Secretary of State." Neither Secretary of State Cyrus Vance nor Deputy Secretary Warren Christopher would respond to questions about their involvement. For them to say anything in advance of the ruling would destroy the veil that has been drawn discreetly over their plan and hazard later reversal. The most anyone will admit off the record is that the *McMullen* ruling was a major blow to the terrorism bureau, to State's new legal adviser Roberts Owen, and to the Special Coordination Committee on Terrorism functioning under the President's adviser, Zbigniew Brzezinski.

Ziad's case was almost certainly reviewed by each of these, and the decision to intervene undoubtedly made because they thought that the Chicago magistrate, a political appointee who normally handles bail bond cases and criminal arraignments, could be pressured into a

ruling that would offset the San Francisco decision in *McMullen*. From a reading of the hearing transcripts and interviews with some of the participants, it appears that State Department lawyers had carefully prepared, researched, and rehearsed the local Department of Justice attorneys acting for the Israeli request, and that Fields was picked as anonymous enough to play the part of an expert witness.

In fact, his role was to communicate to the court that the government badly wanted extradition, and that major international commitments by the President hinged on what Magistrate Jurco did. Her decision will be released any day now.

* * *

"It's amazing," says Hisham Shirabi, a Georgetown University professor. "When the Israelis ask for extradition it's as if they push a button and all American security and legal powers go into action."

To deal with Arabs, Palestinians in



particular, there are three ways in which Washington actively collaborates with the Israeli government. The first is to deny entry to Arabs seeking to enter the United States on visits, for study, or for legal immigration. Alexandra Johnson, formerly an officer at the U.S. consulate in Israel, testified at the Chicago hearing that her regular duties used to include keeping files on all Arabs arrested by the Israeli authorities, whether convicted or not. These, she said, were frequently the basis for denial of visas.

One method for controlling Arabs already in the United States is for the Immigration and Naturalization Service (INS) to initiate deportation proceed-

ings on word from the FBI or from Mossad (the Israeli intelligence agency) that they may be members of anti-Zionist organizations, or may have taken part in demonstrations—even legal ones. In a current case involving Elias Khalil Ayoub, a young Palestinian graduate student in Cincinnati, the INS started deportation moves on the ground that his educational goals, the agency contended, could not be determined. Because his attorneys were able to sue the INS successfully under the Freedom of Information Act for the contents of Ayoub's file, they were able to learn that correspondence between the INS and FBI, and between Washington and Tel Aviv accused him of being a "subversive" and a member of the radical Popular Front for the Liberation of Palestine, a criminal offense in Israeli-controlled territory. The Ayoub file also revealed that since 1972 the State Department had taken concerted steps to set up a government-wide network of reporting on "suspicious" activities by Arab students. (A similar operation aimed at Iranian students was once carried out at the behest of SAVAK, the shah's secret police.)

In many of these cases deportation has the same effect as extradition, for the deportee faces almost inevitable prosecution on his return. But the burden of proof for the government is much simpler, and extradition is a protracted and expensive process that attracts publicity and is covered by clear constitutional guarantees.

Unwilling to abide by the decision in the *McMullen* case, the government has now turned to the deportation device to get rid of McMullen himself, and he has countered with an application for political asylum. In very similar circumstances, deportation proceedings have been begun against another Provisional IRA member, Michael O'Rourke. He was arrested in Philadelphia on November 6, nearly three years after his escape from a Dublin jail where he was serving time for membership in an illegal organization. Under the extradition law, he would almost certainly qualify for the political exception, but the only way he can defend himself against charges that he breached INS entry rules is to seek political asylum.

That privilege is automatically extended to the enemies of America's enemies, not to the enemies of its friends. After all, as one State Department official said about the Ziad case, we can't afford to become a haven for all the world's terrorists. Just some of them. □

The JFK murder case is not closed.

WAITING FOR JUSTICE



More than a year ago, a congressional committee overturned the findings of the Warren Commission, and suggested the trail may lead to the Mob.

By JEFF GOLDBERG

I T IS THE BEST OF TIMES AND THE worst of times," says a former investigator for the House Select Committee on Assassinations with a sigh as the sixteenth November 22 passes without an answer to the question of who killed JFK. The best of times, because the now disbanded assassinations committee took an important step closer to the truth by putting an official congressional stamp on a conspiracy verdict after years of inaction and cover-up, and because no one has yet come forward to seriously challenge the basic findings. But also the worst of times, because media indifference has led the public to believe nothing more can be done and the struggle to find the truth may die a lingering death from official neglect before it has a last chance to yield results.

One who says the investigation must not die is the man who directed the House probe, its former chief counsel G. Robert Blakey. Blakey is certain his investigation zeroed in on the

only suspects. He is sure he uncovered enough evidence to satisfy history, if not a court, that organized crime killed JFK. He boils it down this way: "Any effort to explain that assassination has to include the fact of two shooters and the fact that Oswald was killed by Jack Ruby. Those are facts. They are not debatable anymore. Everything else is theory. I am sorry if this goes down hard or disturbs people who made up their minds that something else was true. I have looked at everything else I could find, in addition to those hard facts, and they all point in one direction. Ruby killed Oswald as a result of a desire to silence him. And Oswald killed the President for a motivation that was known only to Lee Harvey Oswald. But he acted in behalf of a desire on the part of elements of the Mob to get the Kennedy administration off their back. It's that simple."

Simple or not, most people are confused about where the matter stands. When the committee chaired by Representative Louis Stokes (D-Ohio) stopped investigating last December, just days after making public its sensational evidence, this was mistakenly read as an abrupt halt and therefore a sign

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