

DID LEE HARVEY OSWALD ACT WITHOUT HELP?

J. M. VAN BEMMELEN

THE life and death of President John Fitzgerald Kennedy now belong to history and the historians. As with so many other aspects of history, his life, but particularly his death, will remain a riddle, a problem, a topic about which the last word will never be spoken, the last line never written. His successor, President Johnson, by his order of November 29, 1963, one week after the assassination, established a commission, headed by Chief Justice Earl Warren, to investigate thoroughly and independently the truth about the atrocious assassination.¹ No such investigation could be complete without an exhaustive examination of the conspiracy issue. Because of the numerous rumors that Oswald had not acted alone, "all assertions or rumors relating to a possible conspiracy, or the complicity of others than Oswald,"² had to be investigated by the Commission. As the result of this investigation, the Commission in Chapter VI of its Report concludes that:

there is no credible evidence that Lee Harvey Oswald was aided in the planning or execution of his scheme. Review of Oswald's life and activities since 1959 . . . did not produce any meaningful evidence of conspiracy.³

In Chapter VII, Oswald is described as a sort of "lone wolf":

Many factors were undoubtedly involved in Oswald's motivation for the assassination, and the Commission does not believe that it can ascribe to him any one motive or group of motives. It is apparent, however, that Oswald was moved by an overriding hostility to his environment. *He does not appear to have been able to establish meaningful relationships with other people.* He was perpetually discontented with the world around him. Long before the assassination he expressed his hatred for American society and acted in protest against it. Oswald's search for what he conceived to be the perfect society was doomed from the start. He sought for himself a place in history—a role as the "great man"—who would be recognized as having been in advance of his times. His commitment to Marxism and Communism appears to have been another important factor in his motivation. He also had demonstrated a capacity to act decisively and without regard to the consequences when such action would further his aims of the moment. Out of these and the many other factors, which may

J. M. van Bemmelen is Professor of Law at the University of Leiden, The Netherlands.

1. Exec. Order No. 11130, 28 Fed. Reg. 12789 (1963).

2. Foreword to Report of the President's Commission on the Assassination of President Kennedy at x [hereinafter Report].

3. Report 374.

have molded the character of Lee Harvey Oswald there emerged a man capable of assassinating President Kennedy.⁴

The Commission absolves all others of any part in the crime, discovering no evidence

that the Soviet Union or Cuba were involved in the assassination of President Kennedy. Nor did the . . . investigation of Jack Ruby produce any grounds for believing that Ruby's killing of Oswald was part of a conspiracy.⁵

In Chapter VII the Commission reiterates its conclusion that there was no evidence of a conspiracy to assassinate President Kennedy.⁶ The reiteration of this finding indicates the Commission's desire to convince the public, and perhaps even to strengthen its own faith in the conclusion that Lee Harvey Oswald acted alone. It is common knowledge that most judges begin with a certain opinion, and afterwards, look for the substantive matter which must form the basis for their final decision. One of my former colleagues, Professor Dr. B. M. Telders, in one of his essays described this method as a "pia fraus."⁷ The method is not wholly objectionable. Every investigation starts with an hypothesis for which substantiating proof is sought. It is nearly impossible to proceed in any other way. From the facts which a judge has gathered or which have been submitted to him, he receives initial impressions which give rise to certain presumptions. This form of reasoning is dangerous only if after further examination, the facts do not support the initial presumption, and the judge or jury is not careful to examine the evidence in as objective a manner as possible.

The Warren Commission investigation, although concerned with a most serious crime, was nevertheless not a formal criminal procedure. That form of procedure was precluded because the accused was dead. It was impossible to hear his defense or his admissions relating to the possibility of conspiracy. But the aim of the investigation was the same as that of a criminal proceeding—to ensure that the truth is ascertained. Has this aim been achieved? There certainly are still many persons in the United States and in Europe who have doubts in this respect. Among them is Hans Habe, a well-known author who had just finished a trip through the United States at the time President Kennedy was assassinated. In his book *Der Tod in Texas: Eine amerikanische Tragödie*, he criticizes the conclusion of the Warren Report:

4. Report 423-24. (Emphasis added.)

5. Report 374.

6. Report 375.

7. F. Telders, *Verzamelde Geschriften* (Collected Papers) 159, 167 (1947).

We know already at this moment, that the Warren Report will not stand history. Not that the Report is false, it is insufficient; instead of completeness it offers copious circumstantiality. It contains neither lies nor half truths—which are identical with lies—but only the half of the truth. A half truth will nearly always be spoken with bad intent: the half of the truth means that someone has stopped at a certain line behind which lies the truth, a line that must be stepped across, to reach the whole of the truth.⁸

Is this criticism of the Warren Report justified? It implies that the Commission could have gone further with its investigation and would have unearthed "the whole of the truth." It is improbable that this aim would have been reached, for the most difficult thing to prove is a negative fact, in this case the negative fact that Oswald acted *without* any participation or help from anyone else. It is well known that in America there are reactionary groups (the John Birch Society, the Ku Klux Klan, etc.) who were bitterly opposed to the policies of President Kennedy. It is difficult to measure the size of these groups or their influence, but that they have strong and mighty supporters is undoubted. Hans Habe has suggested that they had a direct or indirect link with either Oswald or Ruby, but he does not furnish an iota of proof for this theory. It is true that the Warren Report devoted little space to the activities of these organizations. The John Birch Society is mentioned three times in the Report,⁹ but never in a context that suggests the possibility that it influenced either Oswald or Ruby. The Ku Klux Klan is nowhere mentioned in the Report. Oswald himself had written to Arnold Johnson of the United States Communist Party that:

On the evening of October 23, he had attended an "ultra right" meeting headed by Gen. Edwin A. Walker. Two evenings later he . . . [went] to a meeting of the American Civil Liberties Union, held at Southern Methodist University. At this meeting, a statement was made to the effect that members of the John Birch Society should not be considered anti-Semitic. Oswald rose and stated that at the meeting which he had attended two days earlier, he had heard a number of anti-Semitic and anti-Catholic statements. Later in the evening, Oswald became involved in a discussion with several people . . . [he] expressed Marxist views and declared that he was a Marxist, although denying that he was a Communist. He admitted that the United States was superior to the Soviet Union in the area of civil liberties and praised President Kennedy for his work in that connection.¹⁰

From this, one does not get the impression that Oswald was intimately connected with the John Birch Society, or was even

8. Habe, *Der Tod in Texas: Eine amerikanische Tragödie* 348-49 (1964).

9. Report 296-97, 369, 738.

10. Report 738-39.

seriously impressed by its views. Still one may ask why the Warren Commission did not give more attention to the activities of the Ku Klux Klan and the John Birch Society. Presumably, the answer is that there was no other indication of any connection between Oswald and either of these groups. It seems, however, that the Commission, intent on quashing all rumors of conspiracy, might have investigated the members of the John Birch Society who attended the meeting of October 23.

Another matter about which the Report leaves the reader somewhat puzzled is the relationship between the FBI and Oswald. The Report states:

There was a record in the Dallas office of the FBI that Oswald subscribed to the "Worker," engaged in Fair Play for Cuba Committee activities and had traveled to Mexico. An FBI agent visited the Paine home [where Mrs. Oswald was living] on November 1, and, accompanied by another agent, again on November 5 and spoke briefly with Mrs. Paine. On neither occasion was Oswald present. Ruth Paine noted the agent's name and telephone number and, in accordance with her husband's instructions, Marina noted the license number of the agent's automobile all of which was subsequently reported to Oswald. Both Mrs. Paine and Marina testified that Oswald was troubled by the FBI's interest in him.¹¹

It is therefore certain that the FBI—even shortly before the assassination—was interested in Oswald. It is, perhaps, too easy to reproach the FBI for not following Oswald's activities more carefully during the two weeks preceding the assassination of the President. One wonders, however, why FBI agent Hosty, who on November 4, learned that Oswald was working in the Texas School Book Depository,¹² and who tried to find out Oswald's private address, did not warn the Secret Service about Oswald's presence in Dallas prior to President Kennedy's visit. This question is treated extensively in the Report,¹³ but nowhere is it suggested that Hosty or any other agent of either the FBI or of the Secret Service had neglected his duties in order to facilitate Oswald's activities. The conclusion of the Commission is only that the FBI took an unduly restrictive view of its responsibilities in preventive intelligence work, prior to the assassination, and that:

under proper procedures knowledge of a pending Presidential visit would have prompted Hosty to make a more vigorous effort to locate Oswald's rooming house address in Dallas and to interview him regarding any unresolved matters.¹⁴

Hans Habe is very critical on this point. He suggests that

11. Report 739.

12. Report 438.

13. See Report 440-44.

14. Report 443-44.

Oswald while in Russia had been an agent of the FBI and that the Director of the FBI, J. Edgar Hoover, had been very lax in the performance of his duties.¹⁵ But even if it were true—it certainly is unproven—it does not mean that the FBI or one of its agents had been involved in a conspiracy against the President.

OSWALD'S BACKGROUND

It is apparent that the Commission considered Oswald a sort of "crank." Appendix XIII, which contains the "Biography of Lee Harvey Oswald," corroborates this conclusion, and gives several reasons why Oswald became a psychopath.¹⁶ He was born shortly after the death of his father and until his third birthday, he was fostered by an aunt and another woman. Then he was placed in the Bethlehem Children's Home for thirteen months. After the marriage of his mother to Edwin Ekdahl, she took Lee with her on business trips she made with her new husband and, according to a certain Mrs. Myrtle Evans, "spoiled Lee to death."¹⁷ During his mother's marriage to Ekdahl, the couple quarreled nearly every day and in 1948 the marriage ended with a divorce. After the divorce, Lee's mother and her three sons, of which Lee was the youngest, lived in a small house, where Lee "slept in one room with his mother."¹⁸ He often had to go from one school to another, because his mother frequently moved. One of his teachers described him as a "lonely boy, quiet and shy, who did not easily form friendships with other students."¹⁹

In August 1952, Lee and his mother went to New York where his half-brother John lived with his wife. There Lee was enrolled in public school, but soon became a perpetual truant. On April 16, 1953, "Justice Delaney declared him a truant and remanded him to Youth House until May 7 for psychiatric study."²⁰ The findings of the staff were that "Lee was a withdrawn, socially maladjusted boy, whose mother did not interest herself sufficiently in his welfare and had failed to establish a close relationship with him."²¹ After that, his behavior in school vacillated, but his teachers described him as "quick tempered," "constantly losing control" and "getting into battles with others."²² In January 1954, Mrs. Oswald moved to New Orleans, taking Lee with her, although she was advised by the probation officer

15. Habe, *supra* note 8, at 346-47.

16. See Report 669-740.

17. Report 672.

18. Report 673.

19. Report 675.

20. Report 677.

21. *Ibid.*

22. Report 678.

not to take Lee out of the jurisdiction without the court's consent. In New Orleans Lee finished the ninth grade with mediocre, but acceptable, marks.

He is remembered there "as a quiet, solitary boy who made few friends."²³ But in October 1955, he tried to leave school, using a false letter which he signed with his mother's name. After dropping out of school, "he tried to enlist in the Marines using a false affidavit from his mother that he was 17."²⁴ The attempt failed, but finally, after holding three other jobs he enlisted in the Marines in October 1956. There he learned how to fire an M-1 rifle. During his service he was twice court-martialed. But he was regarded by his fellow servicemen "as an intelligent person who followed orders and did his work well, but who complained frequently."²⁵ In September 1959, Oswald was at his own request released from active duty and transferred to the Marine Corps Reserve. One year later he was given an "undesirable discharge" based on "reliable information, which indicated that he had renounced his U.S. citizenship with the intentions of becoming a permanent citizen of the Union of Soviet Socialist Republics."²⁶ This "undesirable discharge" angered and embittered Oswald, since he considered it a "dishonorable discharge."²⁷

From October 1959 until June 1962, Oswald lived in Russia. His stay there is described extensively in the Report.²⁸ The Commission was able to describe these years in detail because Oswald had kept an "Historic Diary"²⁹ and had also frequently corresponded with the United States Embassy in Moscow and the State Department.³⁰ This story of his life in Russia, his frustrated love for a girl, Ella German, and his marriage with Marina Nikolayevna Prusakova does not throw much new light on Oswald. One is rather astonished that the Russian authorities, who first had decided that Oswald ought to leave Russia within two hours, allowed him to stay in the Soviet Union when, after this "unfavorable decision," he apparently attempted suicide by cutting his wrist.³¹ Not only was he allowed to stay in Russia, but on January 4, 1960, he was sent to Minsk, having received from a government agency, which the Russians called the "Red Cross" the sum of 5,000 rubles (about 500 new rubles, or \$500 at the

23. Report 679.

24. Report 680.

25. Report 684.

26. Report 689.

27. See Report 710.

28. See Report 689-713; App. XV, Report 746-78.

29. Report 691.

30. See Report 746-78.

31. Report 692.

official exchange rate). In Minsk he was met at the station by two "Red Cross" workers, who took him to the Hotel Minsk. He also met the "Mayor" who welcomed him to the city, promised him a rent-free apartment and warned him against "uncultured persons" who sometimes insulted foreigners.³² He worked in Minsk in the Belorussian Radio and Television Factory. His salary varied from 700 to perhaps as high as 900 rubles per month (\$70-\$90). His salary was normal for his type of work but it was supplemented by 700 rubles per month, which he received from the "Red Cross," and according to Oswald, his total income was about equal to that of the director of the factory. According to the Report, most Russians found the attractive apartment given Oswald to be more significant than the extra income. It was a small flat with a balcony overlooking the river. Oswald describes it in his diary as "a Russian Dream."³³ The Commission attributed the "Red Cross" subsidy and the apartment to the favorable treatment which the Soviet Union has given defectors.³⁴ This explanation is plausible, but one wonders what the Russian authorities saw in a young man of 21, who according to his brother Robert "was just a mixed up kid, who had emigrated to Russia because he had become embittered, possibly over something that had happened while he was in the Marine Corps."³⁵ In the same way, one wonders why the United States Department of State gave a "repatriation loan" of \$435.71 to Oswald and his wife. This is especially astonishing because section 423.2-1(c) of the State Department's regulations provides that such loans may be granted only to destitute United States nationals "whose loyalty to the United States Government is beyond question or to whom the provisions of Section 423.1-2(b) apply."³⁶ Section 423.1-2(b) provides that loans to destitute nationals are only authorized when "the United States national is in or the cause of a situation which is damaging to the prestige of the United States Government or which constitutes a compelling reason for extending assistance to effect his return."³⁷

According to the Report, "the Department decided that the provisions of section (b) were applicable to Oswald because his 'unstable character and prior criticism of the United States' would make his continued presence in the Soviet Union damaging to the prestige of the United States."³⁸

32. Report 697.

33. Report 698.

34. See Report 269-72.

35. Report 763.

36. 7 Foreign Affairs Manual § 423, 2-1.

37. 7 Foreign Affairs Manual § 423, 1-2.

38. Report 771.

Thus, being a defector appears to entitle one to extra money from the Soviet Government, while having an unstable character and being critical of the United States enables a United States national abroad to receive assistance from his government. Hans Habe suggests that Oswald had been an "informant"—if not an "agent"—of the FBI in Russia. He states:

From the chapter "Residence in the Soviet Union" it is apparent that there were not only contacts between Oswald and the United States Embassy in Moscow, but it is also mentioned that he was interviewed by the FBI. It [the Report] specifically mentions: "Oswald told the FBI in July 1962 of both his interviews at the MVD."³⁹

It is true that the Report states:

Oswald told the FBI in July 1962, *shortly after he returned to the United States*, that he had been interviewed by the MVD twice, once when he first came to the Soviet Union and once just before he departed. His wife testified that the second interview did not occur in Moscow but that she and her husband dealt with the MVD visa officials frequently in Minsk.⁴⁰

There is nothing remarkable in the fact that the FBI had some interest in Oswald's experiences in Russia "after he returned to the United States." Habe has suggested, however, that the FBI already had contacts with Oswald as an informant *before* his return to the United States. But it should be noticed that Habe misquotes the Report regarding these FBI interviews by omitting the phrase "after he returned to the United States." Thus the Report does not substantiate Habe's assertion.

After his return to the United States Oswald, according to Marina, "was very irritable, sometimes for a trifle."⁴¹ In March 1963, came the attack on General Walker.⁴² In April, Oswald left for New Orleans where he found work with the William B. Reily Company. In July he was dismissed by this firm "because of inefficiency and inattention to his work. He had spent many of his working hours next door at the Crescent City Garage, where he read gun magazines and discussed guns with one of the owners, Adrian Alba."⁴³ Then followed the episode in which Oswald tried unsuccessfully to go to Cuba via Mexico. After this failure, he came back to Dallas, on October 3, 1963. During this time his wife was staying with the Paines. On his return he rented a room at 1026 North Beckley Avenue in Dallas. Mrs. Paine tells that

39. Habe, *supra* note 8, at 346.

40. Report 278. (Emphasis added.)

41. Report 718.

42. Report 724.

43. Report 726.

at that time "Oswald was extremely discouraged because his wife was expecting a baby, he had no job prospects in sight, and he no longer had any source of income."⁴⁴

There are many striking similarities between Oswald's life history and the histories of several patients in the Medical Center for Federal Prisoners in Springfield, Missouri, who were detained there because they had threatened to murder the President.⁴⁵ Like Oswald, they were diagnosed as possessing schizoid personalities and schizophrenic tendencies. Oswald's mother—like the mother of patient 5—was unable to meet her son's emotional needs. Like patient 4, Oswald certainly was in need of a strong parental figure.⁴⁶ "Fathers," says Rothstein, "do not seem to be very prominent in these patients' histories, except by their death, ineffectiveness, or the virtual absence of significant memories concerning them."⁴⁷ Six out of nine patients had disciplinary difficulties during their military service; four of them were bitter about their discharge. A history of depressive and suicidal symptoms was virtually universal in this group of patients studied. Rothstein explains that these factors lead to a feeling of rage toward women, and at the onset of adolescence, to a tendency to turn from the unsatisfactory family to a larger organization—usually the military service:

Joining the service would hopefully provide the patient with needed controls and masculine identification figures. At the same time, it would remove him from women, the real threat. Also joining the service might strengthen his identification with a meaningful group. At a deeper level, the patient would probably expect to be taken care of, to gratify his dependent wishes.⁴⁸

When the patient is dissatisfied and frustrated by the military service, he identifies the United States Government and the President with the military authorities. These patients therefore frequently show an interest in Russia, Communism or Socialism. This seems "to be conditioned by a desperate need to identify with at least any group . . ."⁴⁹ Rothstein states that in the case of one patient "there was a fantasy that a Socialist or Communist government would meet the patient's dependent needs better than the U.S. Government."⁵⁰ Although it does not furnish a decisive argument for the thesis that this "presidential assassination syn-

44. Report 737.

45. Rothstein, *Presidential Assassination Syndrome*, 11 *Archives of General Psychiatry* 245-54 (1964).

46. Rothstein, *supra* note 45, at 249.

47. Rothstein, *supra* note 45, at 250.

48. Rothstein, *supra* note 45, at 251.

49. Rothstein, *supra* note 45, at 252.

50. *Ibid.*

drome" existed as well in Oswald's case, Rothstein corroborates the hypothesis of the Commission that "of these and the many other factors which may have molded the character of Lee Harvey Oswald, there emerged a man capable of assassinating President Kennedy."⁵¹

Two further points deserve brief mention. First, does the murder of Oswald by Jack Ruby indicate the possibility that an organization first hired Oswald to assassinate the President and then used Ruby to shoot Oswald? Second, does Mrs. Oswald's present relative prosperity suggest that some group promised Oswald to pay his wife if he would perform the crime? Both these arguments are used by Habe and several others to insinuate that Oswald acted at the instigation of one organization or another. In regard to the Commission's investigation of the first of these points, Habe says:

The history of the murderer Ruby is—in contrast to the history of the murderer Oswald—a typical example of complete investigation, because here the motive and the act are treated with meticulous care. Must we really accept that not only the act but also the motive have been duplicated? Did the Warren Commission have so little imagination that it was willing to accept as motives for both murders a sort of megalomania, lack of ability to make contacts with other persons, an inferiority complex and whatever more a psychoanalytical dictionary has to offer, and this although the acts of the murderers showed great difference as to motivation for the deed? That both murders happened shortly after each other, should be no cause for amazement, because the second murder was a consequence of the first. But for both murders the same psychopathic predisposition? Of all psychopaths just these two and just these two in Dallas, Texas, just these two in the dark November of the year 1963? Particularly because the motivation of the act of Ruby is so plausible, the explanation of Oswald's act sounds so implausible.⁵²

Habe's reasoning does not appeal to me. First of all, unlike Oswald, Ruby would appear to have no reason for despising the United States or hating its President. Oswald was certainly anti-American, whereas "there is no basis in the record for the inference that Ruby was in any way anti-American."⁵³ Oswald's father died two months before the birth of Lee Harvey. Under the theory as proposed by Rothstein, this lack of a father turned Oswald to the military service where his "undesirable discharge" gave rise to a hatred of the United States and its Chief Executive. Jack Ruby's father, on the other hand, died in 1958 when Ruby

51. Report 424.

52. Habe, *supra* note 8, at 349.

53. Report 791.

had reached the age of 47. Furthermore, Ruby was honorably discharged "after attaining the rank of private first class and receiving the good conduct medal."⁵⁴ Much of Oswald's discontent with life in the United States stemmed from his impoverished circumstances. Ruby, however, had a net income from the Vegas Club which during the period between 1956-1962 varied from \$2,619.52 to \$14,060.86.⁵⁵ In addition to this, Ruby had other sources of income.

There is, however, one significant similarity between Oswald and Ruby that, while not furnishing support for any conspiratorial theory, might suggest that they both acted as a result of psychiatric disorders. They both had such severe difficulties during their school years that they had to undergo psychiatric examination. The reports of these examinations indicate that they both had serious emotional problems resulting primarily from an unhappy home environment.⁵⁶ Also, both Oswald and Ruby ran away from school and were unable to make friends.⁵⁷

In contrast with Habe, Rothstein in his article is not at all astonished by the fact that Ruby and Oswald both acted in a homicidal way.⁵⁸ Neither am I. Every criminologist knows that killing is contagious. It is quite possible that the assassination of the President by Oswald in turn induced Ruby to murder Oswald, without there being any previous link between these psychologically unstable men.

In regard to the financial position of Marina Oswald after the assassination, this point was not considered by the Warren Commission. Perhaps this still can be done. The papers have mentioned that she has received numerous contributions and that she has sold the memoirs of her husband. It might be of interest to trace these sources of her "wealth."

The conclusion of the Commission that Lee Harvey Oswald was not part of a conspiracy is supported by a considerable amount of evidence. Perhaps a more thorough examination of certain aspects bearing on the conspiracy issue could have been undertaken. No amount of evidence, however, could satisfy everyone, for no matter how thorough the investigation, proving a negative beyond every doubt is an impossible task. But the overwhelming evidence gathered by the Commission leads to only one reasonable conclusion—that Lee Harvel Oswald was a psychologically disturbed individual who acted alone, without help from any group or nation.

54. Report 798.

55. Report 790.

56. See Report 677, 781.

57. See Report 677-80, 781-82.

58. Rothstein, *supra* note 45, at 253.