

# New Trial For Ruby

A few days after Jack Ruby killed Lee Harvey Oswald, the accused assassin of President John F. Kennedy, The Paris-Press published an interview with an anonymous Dallas detective about Ruby's possible motive.

The motive, the detective suggested, might come under the heading of a member of a conspiracy "saving his own skin" by silencing someone who might talk.

Q: "By risking the electric chair?"

A: "You gamble, double or nothing. With a good lawyer, you can get off."

Last week, after receiving the services of 14 lawyers at various times, Jack Ruby did "get off." The Texas Court of Criminal Appeals threw out the murder conviction and death sentence imposed by the Dallas jury and ordered a new trial.

Legal observers were not greatly surprised; the trial was conducted in an atmosphere of great excitement and Judge Joe B. Brown Sr. had made several questionable rulings.

## Persistent Doubts

But to the apparently growing number of skeptics about the Warren Commission's explanation of the assassination, the decision came as added fuel to the fire.

Ruby's expressed motive for killing Oswald—to revenge "our beloved President" and spare his family the pain of a trial—had seemed odd to many critics, since Ruby had not bothered to attend the Presidential motorcade.

At least two other writers for Paris journals, Leo Sauvage of Le Figaro and Thomas G. Buchanan of L'Express, had theorized that Ruby had been part of a complex conspiracy to silence Oswald, with the expectation that he would escape the electric chair. This supported the widespread belief in Europe that Ruby was part of a plot to kill the President.

Although no proof of any of this turned up in the Warren Re-

port or at Ruby's trial, last week's action by the Texas court illustrated again the persistent tendency for doubts about the assassination to spread as its aftermath unfolds.

The three-judge court ruled unanimously that Judge Brown should have excluded from evidence testimony that Ruby had told a Dallas police officer shortly after Oswald's shooting that he had planned for two days to kill Oswald if the chance arose. This was based on a progressive Texas statute that had anticipated by 41 years elements of the United States Supreme Court's recent limitations on police interrogation and confessions.

Section 727 of the Texas Code of Criminal Procedure, enacted in 1925, rules out any oral statements made by a defendant "while he is in the custody of an officer."

However, a judge-made exception allows in evidence spontaneous remarks made so soon after the criminal act (in lawyer's Latin, the *res gestae*) that the suspect could be presumed to be in an emotional state that would produce the truth.

Judge Brown had permitted Detective Sgt. Patrick T. Dean to testify as to Ruby's remarks, although they came at least 10, and perhaps as long as 40, minutes after the shooting. The Appeals Court said these were not spontaneous remarks and should not have been admitted. This made it unnecessary for the court to spell out what it called Judge Brown's error in refusing to transfer the trial out of Dallas. It assigned the case to another judge, who will transfer it to another Texas city for retrial.

District Attorney Henry Wade, who prosecuted Ruby in 1964, said he would ask for the death penalty again at the next trial, but Phil Burleson of Dallas, one of Ruby's lawyers, said the Appellate Court decision had knocked out all the evidence of premeditation by Ruby.

This would permit only a conviction of murder without malice, which carries a five-year sentence.



**AS MILLIONS WATCHED:** Jack Ruby shooting Lee Oswald, accused assassin of President Kennedy, as a nationwide audi-

ence watched on TV. Ruby's murder conviction was set aside last week and a new trial was ordered for him.

Bob Jackson from United Press International