

## *The Ruby Case 10/8/66 hnt*

The reversal of Jack Ruby's conviction was essential to clear the national conscience. Although 104 million TV watchers are believed to have seen Mr. Ruby shoot the assassin of President Kennedy, his trial added to the humiliation which the country felt over the whole affair. It is gratifying, therefore, to have the conviction and death sentence set aside by a Texas court acting under Texas law.

The opinion of the Texas Court of Criminal Appeals concentrates on two fatal defects in the trial. The first error was the denial of the defense motion for a change of venue. It is doubtful whether a fair trial would have been possible in the atmosphere prevailing in Dallas in February, 1964. Great difficulty may be encountered in conducting a fair trial in this notorious case anywhere, but the chances will be improved by moving the second trial out of Dallas and by the lapse of two years since the tragic assassination.

More important in causing the reversal was the trial judge's admission of a policeman's testimony that Mr. Ruby had confessed a decision to kill Lee Harvey Oswald when he saw him in a police lineup. This damaging evidence of premeditation, could not be admitted under Texas law unless it were given spontaneously, and the Court found no indication of spontaneity. Since these weaknesses in the trial clearly invalidated its result, the Court found it unnecessary to comment on other aspects of the case. But it did note with satisfaction that Judge Joe B. Brown, who tried the case, had removed himself from further connection with it, and "properly so." Judge Brown had capped the climax of improprieties by writing a book about the case.

The question of Mr. Ruby's future remains. His offense, aside from the taking of a human life, was a very grave one because of his flagrant interference with the orderly processes of the law in one of the worst crimes of the century. If a second trial, with all of his rights protected, shows him to have been sane at the time of the killing, a stiff prison sentence would be in order. But Texas still has a long way to go to show that its judicial machinery can operate with dignity and fairness in this difficult case. And talk of the death penalty ought to be put aside if only because of the unresolved details of the assassination and its aftermath.