

## Who Killed Jack Ruby?

by Murray Kempton

"Late in 1941, Jack Ruby returned to Chicago where he continued his punchboard industry through the mails. Following the December 7, 1941, attack on Pearl Harbor, he and several friends decided to design and sell plaques commemorating the Day of Infamy. However, the venture was impeded by Ruby's perfectionist approach to details of design which resulted in numerous production delays. By the time Ruby's commemorative plaque was ready for sale, the market was flooded with similar items."

— Report of the President's Commission on the Assassination of President Kennedy.

That seems to be the only occasion in the corporate history of Jack Ruby Enterprises — to which Messrs. Kaplan and Waltz have contributed this final

*The Trial of Jack Ruby*  
by John Kaplan and Jon R. Waltz  
(Macmillan; \$7.95)

melancholy chapter — where the disaster can be blamed on a manager who cared too much rather than too little about the product

Men sentenced to death by juries are ordinarily without property and among strangers and defended by a court-appointed attorney. Jack Ruby had a family limitless in patience and was industriously, if somewhat distractedly, defended by Melvin Belli, a San Francisco lawyer with a gaudy record of prior successes. The special interest in the Kaplan and Waltz study arises from the process by which Jack Ruby was reduced to the pauperdom upon which capital sentences generally depend.

This is a case great only because it is notorious. It was managed without dignity from the bench, without concentration from the defense table, without even unusual effort from the prosecution, which used its natural advantages skillfully enough but had altogether so easy a time that, we are told, Dallas District Attorney Henry Wade intended to petition the governor for a commuta-

tion of sentence because "he felt that Ruby had not received a proper defense."

In point of fact, Ruby received no defense at all; the impression is inescapable that Mr. Belli made himself the defendant almost at once, that District Attorney Wade and his assistants happily accepted him as such; and that, at the end, when the jury ordered Ruby to the block, Belli was more the object of its disfavor than his client.

Jack Ruby's disasters always were the result of his delusions about his own importance; the final one must be explained as the consequence of the actions of persons deluded that he was of no importance at all. Poor Ruby's own grandiloquence was, to be sure, the chief contributing factor to the process of his destruction. Immediately after he murdered Lee Oswald, Ruby's family retained as his counsel Tom Howard, a Dallas police court lawyer, whose reputation was celebrated only in the hearts of the petty criminals who were his clientele.

Ruby's killing of Oswald, Howard argued, was "just another nigger murder case" to be handled "among us Dallasites." There were of course certain handicaps: Ruby had "humiliated the police department," and he was the manager of a striptease parlor facing a jury of Protestant fundamentalists. Under the circumstances, there could be no hope of outright acquittal. Still, there was something to be gained by trying the victim Oswald; one or two local psychiatrists would be useful in testifying that Ruby, if not legally insane, was clearly unstable; and Howard thought that after both sides had presented their character witnesses the jury would have the picture of "an excitable, impulsive, even violent show-off who was nonetheless generous, decent and honest." Then he would present Jack Ruby himself and trust his suggestibility to reduce him to tears of repentance.

That was an eminently practical program; and it is a pity that the Ruby family did not accept it. Instead they went looking for counsel worthy of a great state case. And thereafter, everyone involved with Jack Ruby except for

the prosecution, seems to have been thinking of something else:

(1) The Rubys sold Jack's autobiography for \$25,000 and the advertising man who had found them the ghost writer also told them about Melvin Belli, California's most famous personal injury lawyer.

(2) Belli had already said, "I want the case so badly I can taste it." Initially, he suggested a \$50,000 fee. Earl Ruby pointed out that the family had only \$25,000. "Okay," Belli replied, "don't worry about the rest. I'll probably make it by writing a book."

(3) Belli instantly decided that an acquittal for insanity was highly possible. The case, he said, "offered a perfect opportunity to bring the law of insanity up to date while helping Jack Ruby." He was reminded of "the problem of the individual who killed during a period of blackout — and cited many of his previous cases which, he said, had 'wedded more securely modern science to modern law'."

(4) Belli very early, apparently, fixed on that notion that Jack Ruby murdered Lee Oswald while in a blackout or what

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he would later call "the fugue state." In December, he retained Dr. Manfred Guttmacher and Dr. Walter Bromberg as defense psychiatrists; after their first visit to Ruby in prison, they reported to Belli "during a party he staged at a French restaurant in a Dallas suburb. The gathering had been so gay that neither Guttmacher nor Bromberg were able to convey much detailed information to their host."

(5) Belli began his confrontation with Dallas by demanding that Ruby's trial be moved to another county. He had already told a press conference in New York that, "The people of Dallas, perhaps unconsciously, have to have a sacrifice in order to cleanse themselves. They feel that the best way to prove that it is a law-abiding community would be to give him a fair trial and then hang him."

Now, the case for a change of venue in the Ruby trial had considerable weight, although Belli's sense of his client as his main responsibility could well have induced him to press it with the utmost diplomacy. Howard had already noticed that Ruby's most serious danger in a trial in Dallas was the

humiliation his crime had visited upon the city's already deplorable reputation for peace and order. But Belli made the fight with such dash and defiance that, at one point in the venue hearing, he was able to cite as "prejudicial publicity" the newspaper accounts of his statements the day before.

At the end of this skirmish, Kaplan and Waltz decided, "probably the most powerful reason for prejudice against Ruby, on the issues that really counted, was the behavior of his counsel and the statements attacking Dallas which Melvin Belli made in and out of court."

Belli brought to the defense of Jack Ruby a special talent for making certain the fulfillment of his own prophecies. In justice to him, however, he had been marvelously successful in other matters, although a record of having won damage verdicts in excess of \$100,000 for each of a total of more than a hundred clients ought to have impressed the Ruby family less than the fact that Tom Howard, Belli's predecessor as chief of defense counsel, had tried 25 capital cases and never lost a client, and that prosecutor Wade had tried 25 capital cases and failed to get the death penalty in only one.

There remains the mystery, for all Belli's mistakes in this matter, of why a lawyer who had brilliantly exploited so many other courts failed so dismally in this case. The answer may be that murder is a particularly local crime, that the defendant's chance, as Tom Howard took for granted, depends on the appeal to intimacy and is lessened whenever the defense brings a stranger—let alone a defiant and contumacious one—into the courtroom.

(6) Belli's first act on taking the case was to contract with Alvin Moscow to write (with him) the definitive book on the Ruby defense. Moscow's memory of the experience is an instructive insight into the atmosphere of peace and concentration in which the tactics of the struggle to save Jack Ruby's neck were devised:

"Moscow protested that he"—who had expected to be Belli's sole confidant on the planning of the trial—"was not getting much more information than the working press in general. Belli constantly held press conferences at which he informed members of the press generally how his case was proceeding and was almost always available for interviews

in which he discussed details of his strategy. For Moscow, the last straw was Belli's agreement with an independent film producer, Sam Gallu, of Hollywood, to film a documentary on the defense of Ruby . . . [Moscow's] exclusive access to the defense preparations would be shared by a television crew."

(7) Ruby was to suffer incalculably from another key figure similarly distracted by the profit and glory to be expected for a man attached to history. Joe Brantley Brown, the presiding judge, had hoped at the outset that the case could be conducted on television. He was denied this desire by Sam Bloom, the press agent lent him by that object of Belli's contumely, the Dallas Oligarchy. "But, Sam," Judge Brown said then, "couldn't you give me just one camera?"

Kaplan and Waltz, who think that Belli's request to move the trial from Dallas, while theatrically excessive, had a sound foundation, seem to feel that Judge Brown would have agreed to a scene shift if he could have gone along as an actor: "He had made telephone calls to the presiding judges of several other districts, each of whom controlled the assignment of trial judges in his district, and while he had not formally requested permission to accompany the Ruby trial should he transfer it, his tentative feelers had met with little encouragement."

Judge Brown was also writing a book.

(8) While the jury was being picked, Belli made public tests which suggested that Ruby might be suffering from that psychomotor variation of epilepsy which thereafter became the *idée fixe* of the defense. Almost at once there descended upon him Maurice A. Melford, director of the National Epileptics League, likewise distracted by the image problem. Melford flew to Dallas and distributed to newsmen attending the trial a "Fact Sheet on Epilepsy" saying that it was "nonsense" to suggest that the victim of a psychomotor seizure could commit murder. "In short," Kaplan and Waltz coldly notice, "the Epilepsy League was preparing to inform the public about the validity of the defense to a murder charge."

(9) Belli, in the fit that possesses any lawyer who has taken on the case of society rather than of his client, carried his trip across "the frontiers of

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legal-medical knowledge" considerably farther than psychiatrists Guttmacher and Bromberg wanted to go. Dr. Guttmacher, whose court experience is as deep as that of any psychiatrist in practice, wrote Belli that it seemed to him "scientifically unsound and legally imprudent to assert with absolute assurance" that Ruby shot Oswald during an epileptic attack. Belli's comment on this strong warning was that "Dr. Guttmacher's estimate was not precisely what I would have wished for." Thereafter, Dr. Guttmacher was of little use. His examination by Belli at the trial was "almost cursory." And "prior to taking the stand, Dr. Guttmacher had no really satisfactory private talk with the defendant's chief counsel. They had, the doctor complained, constantly been surrounded by Belli's retinue - 'including, you won't believe it,' he had said, 'a camera crew'."

(10) At the end, Judge Brown insisted that the closing arguments be commenced at one in the morning. At the end of two hours, "one of the women jurors was asleep."

When Belli came to the jury rail for his final appeal, "a juror yawned and lit a cigarette." By then Belli said "everything seemed unreal." Both he and his auditors had been reduced to the fugue state.

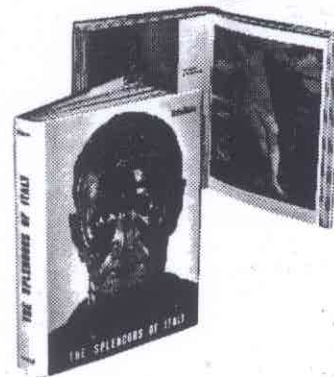
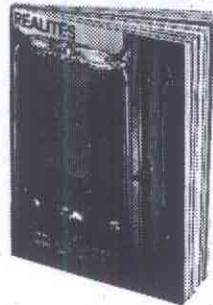
The oddest thing of all to Kaplan and Waltz is that nowhere in his closing argument did Belli "even try to talk the jury out of imposing the death penalty on his client."

Belli's answer is: "Would it have been moral to take this sick man, this mental cripple and have him grovel, 'I'm just a Jew boy and I'm sorry. Please forgive me.' I can't agree that demeaning Ruby in that way would have been right tactically any more than morally."

Tom Howard, of course, would have offered Jack Ruby to the jury saying "I'm just a Jew boy, forgive me." If the best of lawyers forgets a client, he is in danger of forgetting what the client might think demeaning to him. Kaplan and Waltz are always admirable, but nowhere more than in their epilogue when they suddenly remember Jack Ruby, whom the other actors quite soon and decisively forced off his own stage:

"Although Oswald may have died, undisturbed, with whatever illusions led him to his deed, Jack Ruby, be-

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fore a crowded courtroom and the press of the world, was stripped of both his self-respect and his illusions. He heard himself analyzed by his psychiatrists as a latent homosexual with a compulsive desire to be liked and respected, described by his own lawyer as the village clown, damningly quoted by members of the police department in whose reflected prestige he had been happy to bask, and forced to sit, as a passive witness, while the attorneys, the judge and the jury fought over and decided his fate."

A policeman said that, just after Jack Ruby's arrest, he consented to answer all questions "if we wouldn't make a fool of him." When the FBI agent ar-

rived to question him an hour later, Jack Ruby's first reaction was to ask what newspaper his visitor came from. He had then a proper sense of his own dignity and a wild illusion of his own importance—the first of which was destroyed and the second of which was shunted aside by men with better-certified licenses to feel important. Repenting on the witness stand, he would not have demeaned himself but reasserted himself, because he would have been visible. We owed this unfortunate man his public degradation; the alternative was for him to have no presence at all but to serve merely as the occasion for other men to think about themselves. In the end, twelve of his brothers, would throw him away like a used toilet tissue.

possibility it has for the moment simply disappeared. As in so many other cases we are left confronting the artist who has been abandoned by his ostensible subject. The artist we now see is one whose energies are largely lavished on defensive maneuver, on masquerade. The power she now exercises is a measure of the degree to which the masquerade is itself something American. It is a small power when compared with Whitman's, but it is, despite the shell-work of fictional convention, a power of the same kind which engages us in "Song of Myself": a delighted absorption in the capacity of the self to embrace the world. In Whitman this play is overt; in Willa Cather it is masked.

## Willa Cather: Her Masquerade

by Quentin Anderson

Even those who felt, forty years ago, that America had gone wrong, had been seized by corporations, and jacketed its energies in the genteel tradition, also felt that there was psychic elbowroom left in which to assert the claims of art and intellect. In those days one travelled

Collected Short Fiction, 1892-1912  
by Willa Cather  
edited by Mildred R. Bennett  
(Nebraska; \$8.50)

from Kansas to Chicago, from Plainfield to Greenwich Village, and the space you traversed was real space; you put things behind you, and came on wonders, just as Willa Cather had long before, when she travelled the comparatively small distance from Red Cloud



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to Lincoln, Nebraska, and visited the extraordinarily cultivated household of Westermann, the historian. If, for most of these aspiring youngsters, God was dead, he had nonetheless left behind him his big echoing house, his many mansions, of which this enormous continent was one, and which they felt obliged to chart. Willa Cather's early Nebraska novels, *O Pioneers!* and *My Antonia* were read as reports from afar, reports from a citizen about the recent past of the big, erring country: the final pioneer experience, and the bitter recoil from its failure to transfigure the meanness of such towns as Red Cloud. These books were further attested as assertions of the claims of a wider life than that led by Mencken's booboisie: they were enlivened by the energy and grace of Swedish and Bohemian manners and attitudes miraculously rooted—better rooted than those of the Anglo-Saxons—on the Nebraska prairies. One can catch echoes of the fullness of this faith in the big country, and the effort to capture it for art, as late as Alfred Kazin's treatment of Willa Cather in *On Native Grounds*, published in 1942.

The country has shrunk, and our sense of the weight and relevance of Willa Cather's observation of Nebraska has shrunk with it. Nebraska is no doubt still there, but as a distinct imaginative

The documentary importance of this book of stories is its demonstration of the impulse (shared by the youthful Whitman) to undertake impersonations in many modes, in those of Conrad, Henry James, Frank Norris, O. Henry, Sarah Orne Jewett, and such submerged figures as David Graham Phillips and Alfred Henry Lewis. The talent for stylistic masquerade is rather striking in the case of "Eleanor's House," in which Henry James is copied as to cadences, creation of a claustrophobic fictional world, and characteristic fable, but in which the informing passion doesn't appear—it is a bleached Henry James story. One of these stories ("Flavia and Her Artists") has a jolly hardnosed detachment—a hint of Ring Lardner—which is almost without parallel in Miss Cather. This may be because she has put herself in—as Miss Broadwood, an actress, who is reminiscent of the burly, wholesome games mistress of English fiction. Miss Cather reprinted the best of her early work in *The Troll Garden* and had the good sense not to reprint the rest. Now that this group of stories has been republished (a good many for the second time, since the same editor issued *Early Stories* in 1957), it appears as evidence of the early talent for impersonation and little more. Willa Cather's breakthrough to a masquerading mode informed by her personal passion came, like Whitman's, rather late, with the publication of *O Pioneers!*, her second novel, in 1913. This body of early stories, taken together with Miss Cather's extraordinary success as managing editor of *McClure's* (1906-1912) is, however, of great biographical