

TRIALS

Death for Ruby

Millions had watched on television when paunchy little Jack Ruby killed Lee Harvey Oswald in a crowd of Dallas policemen four months ago. Last week millions more watched—thanks to a television camera wheeled into the Dallas courtroom of Judge Joe B. Brown—as Ruby's murder trial ended in another wild scene almost as shocking.

A jury of eight men and four women had filed somberly into the courtroom a little after noon. Judge Brown read their verdict: "We, the jury, find the defendant guilty of murder with malice and assess the penalty at death." Ruby stared at the jury, bit his lip, then scuttled impassively out of the room behind a phalanx of sheriff's officers. But his attorney, barrel-chested Melvin Belli, was thunderstruck. He leaped to his feet, shouting, "Don't worry, Jack! We'll appeal this and take it out of Dallas."

A Weak Case. Judge Brown tried to silence him, then dismissed the jury and adjourned court. Belli was enraged. Microphones sprouted around him, and Belli began ranting. "I hope the people of Dallas are proud of this jury that was rammed down our throats!" His face was deep red, his head bobbing. "The festering sore that is Dallas is now the most shocking place in the nation! If this venom spreads, then God help us all!" He seemed nearly out of control, and the microphones picked up every inflamed syllable: "This is the biggest kangaroo court disgrace in the history of American law!"

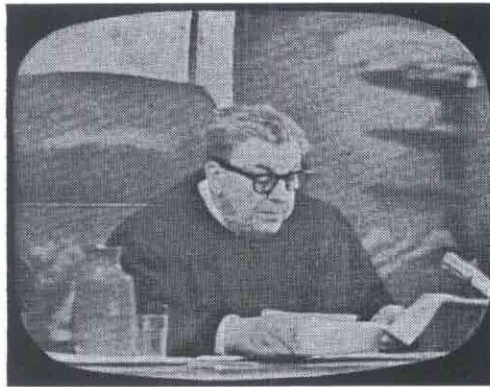
While Belli bawled out his anger, District Attorney Henry Wade, 50, a former FBI agent, quietly told the jury: "Thank you for a fair and impartial verdict." Later, on the courthouse steps, he commented to reporters in a dignified drawl that possibly Melvin Belli had slipped into a "fugue state" of mind himself.

What, reporters asked, had Wade thought of Belli's efforts to prove Ruby innocent by reason of insanity? "They pitched their whole case on insanity rather than asking for mercy or leniency, and so the jury probably subconsciously got the idea it was either insanity or death," said Wade. "It was as weak a case of psychiatric defense as I've seen." Did Wade think Dallas' civic reputation was cleared by the verdict? The prosecutor said: "I don't think Dallas was on trial. I don't think I was on trial. I don't think Mr. Belli was on trial. I think Jack Ruby, who shot a man while he was handcuffed to two policemen, was on trial."

Man's Best Friend. The man on trial had not testified on his own behalf during the five-day presentation of his defense case. "We don't think he's mentally capable of going on the stand," explained Attorney Belli. Had Ruby agreed with that? "Jack just sort of mumbled his consent," said Co-Counsel Joe Tonahill. Instead of the defendant,

Belli and Tonahill put on a parade of witnesses, all of whose testimony aimed to prove that Ruby was a sick little man given to emotional crises and mental blackouts.

A stripper named Penny Dollar, who once worked at Ruby's Carousel Club, told the jury that she had seen Ruby throw a man downstairs, pounce on him and beat his head repeatedly on the sidewalk, then rise in bewilderment and say, "Did I do this? Did I do this?" George Senator, 50, Ruby's bachelor roommate who identified himself as "a former postcard salesman," recalled that Ruby woke him at 3 a.m. the day after Kennedy was shot, seemed "very, very solemn, very moody." Dallas Rabbi Hillel Silverman, who had known Ruby for ten years, recalled that one day last year Ruby suddenly appeared on Silverman's front yard with half a dozen dogs. Said the rabbi: "Suddenly he began to cry. He said, 'I'm un-



JUDGE BROWN
Just who was the man on trial?

married,' and, pointing to one dog, he said, 'This is my wife,' and, pointing to all the dogs, he said, 'These are my children.' Then he sobbed and cried." Silverman considered Ruby "a very emotional, unstable, erratic man."

The Doctors. But the bulk of the defense case was based on testimony from that trial genus known as the expert witness (*see THE LAW*). First was Yale Psychologist Roy Schafer, who had given Ruby ten psychological tests after his arrest. The results? Said Dr. Schafer: "He gave a rather weighty indication of emotional instability." Schafer's conclusion: "There was organic brain damage and the most likely nature of it was psychomotor epilepsy."

Next was Dr. Martin Towler, a University of Texas neurologist and psychiatrist who had spent hours examining Ruby for Judge Joe Brown in order to offer a neutral source of information to the court. Towler had made electroencephalographic examinations (brain-wave readings) of Ruby, told the jury that his graphs showed "paroxysmal discharges" from parts of Ruby's brain—indicating that "the subject is suffering from a seizure disorder." But in cross-examination, District Attorney Wade asked Towler if he meant

to imply to the jury that Ruby had been out of his mind when he shot Oswald. Replied Towler: "I have not tried to say so."

Then Belli brought in his star doctor, Manfred Guttmacher, 65, of Baltimore, a psychiatrist for 32 years and a veteran witness in court cases. Belli immediately asked him the key question: Was Ruby sane when he killed Oswald? Guttmacher did not hesitate in his answer: "I don't think he was capable of distinguishing right from



PROSECUTOR WADE



DEFENDER BELLI

wrong or realizing the consequences of his act at the time of the shooting."

"A Known Person." Guttmacher ticked off a list of Ruby's deviations: he is a "suicide risk," has a "voracious need" to be loved, especially by "persons in positions of power," has a deep "consciousness of sexual doubt," has "a narcissistic concern over his weight and his baldness."

Ruby was so crushed by the assassination, said Guttmacher, that he spoke of Kennedy "in terms that a person in love would use," saying again and again, "I fell for that guy." In his state of grief, said Guttmacher, Ruby blanked out, did not remember killing Oswald, recalled only being wrestled to the floor after the shooting. Said Guttmacher of Ruby's account of that moment: "He said, 'It flashed through my mind what are all these people jumping on me



JACK RUBY

The deviations were not enough.

for? I'm a known person, not some kind of a screwball."

Belli was elated with Guttmacher's testimony, decided that other defense witnesses would be anticlimactic. The next morning he told Judge Brown: "The defense rests, Your Honor."

That was not, of course, the end of the Ruby case. Henry Wade had three topnotch medical experts of his own waiting to present rebuttal testimony. They were Neurologists Francis Forster of the University of Wisconsin, Roland Mackay of Northwestern Medical School, and Robert S. Schwab of the Harvard Medical School. Each testified that Ruby's electroencephalograph charts proved no markedly serious ailment in the defendant. When Forster was asked if the graphs supported a diagnosis of psychomotor epilepsy, he retorted: "They would not."

For surrebuttal, Belli summoned from Chicago Dr. Frederic A. Gibbs, a pioneer in electroencephalography. After a midnight flight to Dallas, Gibbs took the stand, said in precise and authoritarian manner: "I determined that Jack Ruby had a particular, very rare type of epilepsy, a type that afflicts .5% of epilepsy cases, a very distinctive epileptic pattern."

"Back to the Lynch Laws." Gibbs was the 66th—and last—witness in the trial. Judge Brown had already framed his charge to the jury, explaining what choice of verdicts they had under Texas law. Court was recessed while defense and prosecution attorneys studied the charge. Before long, the defense was screaming about it. Tonahill told newsmen, "It's an instructed verdict of guilty." Cried Belli: "It's unsanitary, un-American and un-Texan." They tried for hours to get Brown to change it, lodged 137 separate exceptions to the charge. Unyielding, Brown left it about the same, finally got around to reading

it to the jury after dinner that night.

Then, into the morning hours, came the summations—four for the prosecution, three for the defense. Belli began the defense's final oration shortly before midnight, walked slowly to the jury box and said softly: "Let us see in the small hours of the morning if we can discover something never lost in this great city of Dallas. I speak of justice." He reviewed the psychiatric evidence, thumped a green cardboard box containing the stack of charts tracing Ruby's brain wave. At the defense table, big Joe Tonahill wept. Jack Ruby, chalk-white, sat listless and still.

The prosecution's lead-off man, Assistant District Attorney William Alexander, insisted that Ruby must die in the electric chair. "Don't tell me it takes guts to shoot a man who is manacled," cried Alexander. "This is a wanton killing. Ruby felt he could kill Oswald and be a hero, make money and become famous." At 12:50 a.m., D.A. Wade wearily arose and, his voice rough with fatigue, said: "You have a cold-blooded killing that could not be more malicious. If you turn this man loose, you'd set civilization back a century. You'd set civilization back to barbarism. You'd set civilization back to the lynch laws." Wade spoke only 15 minutes, wound up saying: "I ask you to show Jack Ruby the same mercy, compassion, and sympathy that he showed Lee Harvey Oswald in the police department."

Wade sat down. The trial was over and the jurors retired to their hotel rooms. They began their deliberations the next morning and, after two hours and 19 minutes, returned their verdict. After Judge Brown read it, he quickly shot a question to the grim-faced jurors: "Is this unanimous? So say you all? Please hold up your right hands." Twelve hands went up instantly.

The Real Corruption

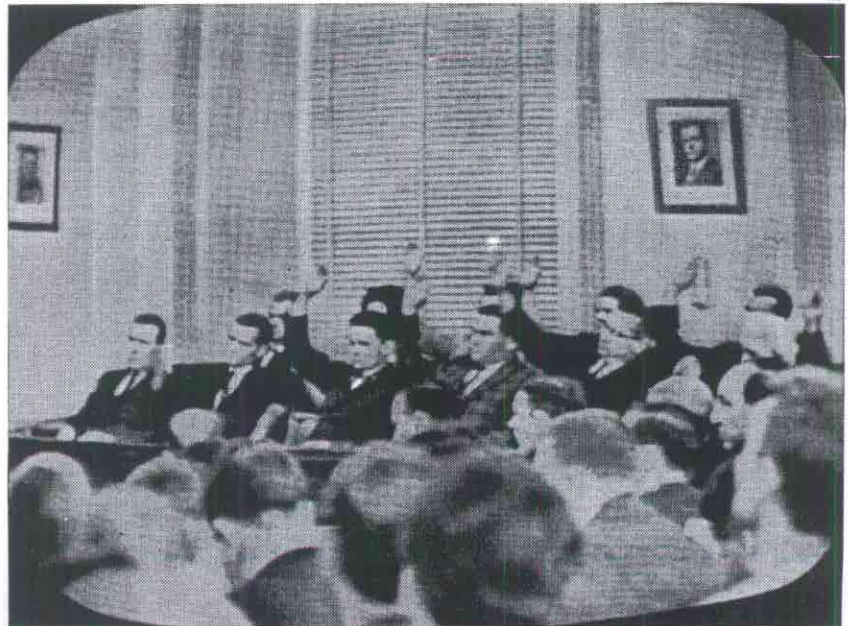
Convicted Teamsters Boss Jimmy Hoffa last week braced himself before U.S. District Judge Frank Wilson in Chattanooga and prepared to take it on the chin. He got it. Wilson slugged Hoffa with a sentence of eight years in prison and a \$10,000 fine for trying to bribe a jury that was hearing conspiracy charges against him in 1962.

Then the judge cut loose with a blistering lecture. Said Wilson: "Most defendants that stand before this court for sentencing have either violated the property rights of other individuals or have violated the personal rights of other individuals.

"You stand here convicted of seeking to corrupt the administration of justice itself. You stand here convicted of having tampered, really, with the very soul of this nation. You stand here convicted of having struck at the very foundation upon which everything else in this nation depends, the very basis of civilization itself, and that is the administration of justice, because without a fair, proper and lawful administration of justice, nothing else would be possible in this country.

"Now, if a conviction of such an offense were to go unpunished, it would surely destroy this country more quickly and more surely than any combination of any foreign foes that we could ever possibly have."

Hoffa, whose appeals may postpone his incarceration for a couple of years, stiffly told the judge: "I stand here today and state that I am innocent." Later he told newsmen: "I have lived my life, 51 years, serving my fellow man, serving the members of the international union, and nobody can say I have betrayed my trust, because the record speaks for itself."



RUBY JURY RAISES HANDS TO SHOW UNANIMOUS VERDICT

"We, the jury, assess the penalty at death."