

2 LAWYERS TERM RUBY TRIAL UNFAIR - 392-Page Study Is Critical of the Presiding Judge - Cites his Book Contract (excerpts of article)

Did Jack L. Ruby, Dallas nightclub owner who killed Lee Harvey Oswald... receive a fair trial?...

The latest book on the events in Dallas was written by two law school professors, John Kaplan of Stanford University and Jon R. Waltz of Northwestern. Both are experienced trial lawyers.

They conclude that the Ruby case reflected little credit on the legal profession or the judicial process, and that it exposed the weaknesses of trial by judge and jury.

The heaviest of their strictures are aimed at Judge Brown, the presiding judge at the trial. He contracted for a fee to write a book about the case which might still be before him " at the time the book was published," the authors charge, calling the situation grotesque...

If Mr. Belli's errors produced " the wrong result," they say, this is because the adversary system requires not only that both sides be represented equally well, but that they have equal luck.

The authors do not indicate what they think Ruby's penalty should have been. But they report that even the prosecution considered the death penalty " too severe." They say the degree of Ruby's guilt was one of the main issues of the trial and that the trial did not settle the question.

Another factor that kept Ruby from getting less than the measure of justice to which he was entitled, the authors write is that the Ruby trial was " a state case," one involving the highest interests of the state.

"Our legal procedures," they conclude, " are not designed for cases in which all of the participants - the lawyers, the judge, the witnesses and the jury - know that the eyes of the nation are on them."

FACTS ABOUT JOHN KAPLAN

- Chief Law Clerk to Justice Tom Clark, who's son Ramsey was Attorney General while Ray was being prosecuted, and who officially proclaimed that there was no conspiracy to kill Martin Luther King.
- Lawyer with the Criminal Division of the Department of Justice (which Weisberg successfully sued to obtain evidence in the Ray case which had been illegally suppressed).
- Assistant United States Attorney - San Francisco
- 1965 - Wrote "The Trial of Jack Ruby" which praised the Prosecution and the Dallas Police, and maintained that Ruby did not receive a fair trial because his lawyers improperly conducted his defense.
- Spring, 1967 - Wrote "The Assassins" for the American Scholar. In this article Kaplan attacked all of the critics of the Warren Report and firmly backed the conclusions of the Warren Commission. He criticized The New York Times and Life Magazine for " adding to the confusion " by calling for a new investigation in their editorials. His comments on "Whitewash" were: " the most strident, bitter, and generally irrationally biased of all the attacks on the Commission." Kaplan cited no examples, saying it was " charity " not to.
- May, 1971 - Wrote 2500 word, two-part article for the Press and Publication Service of the United States Information Agency (official propaganda) entitled: " The Case of Angela Davis: The Processes of American Justice. " The introduction presents Kaplan as an expert on evidence and Criminal Law, omitting all references to his Justice Department background. About the shootings, "somebody" fired the first shot (the unmentioned somebody being the police). Racism in the case is "implicit" only because " all the kidnapers had been black, and all the hostages white. " The general feeling by Kaplan as a supposedly objective scholar is that the Government will be able to build a strong First Degree case against Angela Davis if they can persuade the Jury to make the proper inferences from the evidence.

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