

## End of Ruby Trial Delayed by Dispute

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DALLAS, March 13—The Jack Ruby murder trial stalled today as it neared its finish when defense lawyers objected to the charge to the jury prepared by Judge Joe B. Brown.

Tonight the jury was still awaiting the charge.

Judge Brown had given the defense all afternoon to prepare written exceptions. Exasperated, the judge said he was determined that the case would go to the jury soon.

The taking of testimony ended this morning. Judge Brown then called attorneys for the defense and prosecution to his chambers for a preview of his charge, or instructions, to the jury. Copies were given to both sides.

He had hoped to deliver the charge early this afternoon and then, after closing arguments, give the case to the jury by evening.

But these hopes were dashed as soon as Judge Brown's charge was seen by the defense. Loud cries of protest emanated from the judge's chambers. From time to time Melvin M. Belli, the chief defense counsel, and his assistant, Joe H. Tonahill, emerged to denounce the charge.

"It's un-American, un-Texan and unsanitary," said Mr. Belli.

"And it's cold blooded," added Mr. Tonahill.

The defense argues that Ruby, a 52-year-old Dallas night-club operator, was insane when he shot Lee H. Oswald, the accused assassin of President Kennedy, last Nov. 24.

Mr. Tonahill said Judge Brown's 11-page charge was "more an instructed verdict than a proper charge."

"There are many reversible errors in it," Mr. Tonahill said. "It does not define insanity. It makes many comments on the weight of evidence, and the comments presume malice."

Judge Brown told the lawyers to prepare written exceptions to his charge. Philip Burleson of the defense staff went to his local law office and put three secretaries to work on the task.

After an hour the judge summoned Mr. Burleson, who said he needed all afternoon and left again.

Later, in the press room, Judge Brown approached Mr. Tonahill and requested the copy of the charge that Mr. Tonahill had taken from his desk.

"Oh, did I run off with your charge?" said Mr. Tonahill. "It's not from any affection of it, I assure you."

Judge Brown said earlier that the jury's announcement of the verdict would be televised.

The state is demanding that Ruby be sent to the electric chair for murder with malice, contending that Ruby planned the slaying and that he expected to be hailed as a national hero.

The jury, if it finds Ruby sane and guilty, may choose from a wide range of penalties, from death in the electric chair to a suspended sentence. The jury must acquit Ruby if it believes he was insane at the time of the killing.

### Doctor Is Final Witness

Testimony in the case ended with the 66th witness, Dr. Frederick A. Gibbs of Chicago, an authority on brain-wave tests.

Dr. Gibbs, 56, had come to Dallas reluctantly in response to pleas from Ruby's lawyers. The defense wanted him to rebut medical testimony presented yesterday by the closing witnesses for the prosecution.

These witnesses were three neurologists, Dr. Robert S. Schwab of Harvard University, Dr. Roland Mackay of Northwestern University and Dr. Francis M. Forster of the University of Wisconsin.

They testified that charts of Ruby's brain waves did not establish a diagnosis of either organic brain damage or epilepsy.

Dr. Gibbs has been studying brain-wave charts since 1932. When he saw Ruby's charts, according to the defense, he immediately diagnosed the case as a form of epilepsy.

Yet he refused to testify for the defense, although he said he would appear if summoned as a witness for the court. He changed his mind late yesterday because, he said, he was disturbed by newspaper reports of the trial that, in his opinion, contained misconceptions about the relationship between epilepsy and crime.

When Dr. Gibbs took the stand today, Mr. Belli asked:

"Have you determined from the tracings that Ruby was suffering from epilepsy?"

A. I have determined that Jack Ruby had a rare form of epilepsy. Not the form with seizures, but the type that afflicts one-half of 1 per cent of all epileptics.

Q. Was your finding clear, doubtful or borderline?

A. It was clear.

Q. Does this kind of disease appear rarely in the traces?

A. It is extremely rare.

Q. Does this kind of disease appear rarely in the traces?

Q. You have examined 50,000 separate encephalographs, have you not?

A. Yes.

Q. And in 253 cases psychomotor epilepsy was unmistakable?

A. Yes.

Q. And this one of Jack Ruby's is unmistakable?

A. It is.

Dr. Gibbs said Ruby's chart indicated instability characterized by "lack of emotional control—impulsive and obsessive types of behavior."

### Outbursts of Rage

A victim of psychomotor variant epilepsy, Dr. Gibbs said, can experience sudden outbursts of rage. Impairment of memory during such outbursts is variable, he added.

The defense contends that Ruby was in a mental blackout when he shot Oswald, that he was not then capable of distinguishing between right and wrong or of knowing the nature and consequences of his act and that he was therefore insane under Texas law.

Under cross-examination Dr. Gibbs conceded that he had no way of knowing whether Ruby, at the moment he killed Oswald, was legally sane or insane.

William F. Alexander, assistant prosecutor, implied that psychomotor variant epilepsy was a disease that Dr. Gibbs had invented.

Why wasn't it listed in any textbook of medical nomenclature? he demanded.

"It will be," Dr. Gibbs replied. "There is a good deal of lag in medical nomenclature."

Mr. Alexander asked Dr. Gibbs, who founded the American Electro-encephalographic Society, why he later resigned from it. Dr. Gibbs said he had done so because he thought the society was certifying electro-encephalographers for a technique he considered inferior.

"You consider yourself a heretic, don't you?" Mr. Alexander asked.

"Possibly," Dr. Gibbs said, "but I'd rather use another word."