

NYTW

The Ruby Trial 12/3/63

The late Robert Jackson once said that excessive publicity surrounding the accusation and trial of criminal suspects was "one of the worst menaces to American justice." Too often in this country we see a criminal trial become a circus, providing titillation to the public instead of the quiet search for truth that should characterize judicial proceedings.

These thoughts come to mind with reports that television cameras may be admitted to the Dallas trial of Jack Ruby on the charge of murdering Lee Harvey Oswald, alleged assassin of President Kennedy. In a letter to the editor of The New York Times, seven Harvard law teachers tellingly criticize the whole handling of the criminal process in Dallas to date for its excessive emphasis on publicity. These grave errors would be compounded by televising the trial, as can easily be judged in considering just one fact: that the faces of the jurors would be displayed to millions day after day on television. A juror whose conscience pointed to an unpopular position might well be dissuaded by fear of public contempt or worse.

The press and other media of communication have their great duty to seek the facts by all decent means. The events of the last grim week have demonstrated how effective television, in particular, can be in giving every American a sense of direct participation in history—in all its majesty and all its terror. But officers of the law have their responsibilities, too, and one of them is to assure fair trials. When these two duties conflict, we have no hesitation in saying that fair trial should take precedence over publicity.

All these considerations are the more compelling in the case of Jack Ruby. Even should he welcome television cameras, they ought to be rigorously excluded. The reputation of American justice has already been damaged enough in our own eyes and in those of the world as a result of the degrading events in Dallas without suffering the further indignity of the Ruby trial becoming a national show.

12/3/63
Letters

Conduct of Oswald Case

Obsession With Public's 'Right to Be Informed' Is Condemned

To The Editor of The New York Times:

The undersigned, teachers of the Administration of criminal justice at the Harvard Law School, would like to commend The New York Times for its excellent editorial commenting on the deplorable incidents in the Dallas police station ending in the death of Lee Oswald.

From Friday, Nov. 22, through Sunday the shocking manner in which our processes of criminal justice are often administered was exhibited to ourselves and to the world. Of course, there was a legitimate concern of the public to know promptly that investigations had been completed and a single suspect apprehended, and that responsible authorities had sufficient evidence to justify his arraignment and indictment.

But surely this could have been satisfied without turning the process of investigation and accusation into what can only be described as a public spectacle, carried on in the Dallas police station with its halls and corridors jammed with a noisy, milling throng of reporters and cameramen.

Access to News Media

Precisely because the President's assassination was the ultimate in defiance of law it called for the ultimate in vindication of law. The law enforcement agencies, in permitting virtually unlimited access to the news media, made this impossible. Not only would it have been virtually impossible to impanel a jury which had not formed its own views on those facts which might come before it, but much of the information released, such as statements by Mrs. Oswald, might have been legally inadmissible at trial.

It is ironic that the very publicity which had already made it virtually impossible for Oswald to be tried and convicted by a jury meeting existing constitutional standards of impartiality should, in the end, have made such trial unnecessary.

We cannot comfort ourselves with the notion that this could have happened only in Dallas. It is too frequently a feature of our process of criminal justice that it is regarded as a public carnival. And this reflects our general obsession that everybody has a right immediately to know and see everything, that reporters and TV cameras must be omnipresent, that justice must take a second place behind the public's immediate "right to be informed" about every detail of a crime.

Incompatible With Justice

For the fact is that justice is incompatible with the notion that police, prosecutors, attorneys, reporters and cameramen should have an unlimited right to conduct ex parte public trials in the press and on television.

As long as we adhere to that notion, and as long as our legislatures and courts are unwilling to protect the processes of justice, we must recognize that the lamentable behavior of the Dallas law enforcement agencies and of the communications media reflect a flaw in ourselves as a society.

PAUL M. BATOR, RICHARD R. BAXTER, CHARLES FRIED, ROBERT A. GIRARD, HENRY M. HART JR., LOUIS L. JAFFEE, JAMES VORENBERG.
Cambridge, Mass., Nov. 27, 1963.

An editorial on this subject appears today.