

A 2D JUROR SWORN FOR TRIAL OF RUBY

37 Dismissed After 5 Days
—Case Resumes Today

By HOMER BIGART
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DALLAS, Feb. 21—A second juror was accepted today for the trial of Jack L. Ruby. But Ruby's chief defense counsel, Melvin M. Belli, told a news conference this evening: "We are not picking a jury; we are having a jury forced down our throat."

After five days of jury selection only two men have been chosen from the first 39 veniremen examined.

"We can't get a fair jury," said Mr. Belli. "I thought we would have four jurors by tonight and we have only half that number."

The result proved, he said, that Dallas could not provide a fair and impartial jury for Mr. Ruby, the 52-year-old night club operator indicted in the slaying of Lee H. Oswald, the accused assassin of President Kennedy.

Trial in Session Today

Mr. Belli wants the trial moved to another country in Texas. But Judge Joe B. Brown said he was satisfied with the progress and ordered the jury selection resumed tomorrow.

The juror chosen today was Allen W. McCoy, 39, an industrial engineer. Mr. McCoy is a Baptist, and so is Max E. Causey, an electronics analyst who yesterday became the first juror selected.

Of 39 veniremen examined this week, 15 were excused for having scruples against capital punishment, seven were eliminated by peremptory challenges of the defense and two by peremptory challenges of the prosecution, one was excused sickness and the rest were rejected for having pre-judged the case in some way.

Mr. McCoy, a tall stocky man with thinning black hair, was accepted by the defense lawyers after giving what seemed to them a sympathetic answer to this question by Mr. Belli:

"If you were in Ruby's place, would you want to be tried by a panel of jurors who are in your present frame of mind?"

His reply was: "I don't think I could have a better frame of mind unless it were loaded in my direction."

Smiles at Questions

As the proceeding proceeded, Mr. McCoy's face softened and he smiled frequently at Mr. Belli. When Mr. Belli asked McCoy if he would have any prejudice against Ruby as the operator of "a strip tease joint" Mr. McCoy replied: "That's his business."

"We are going to accept you," said Mr. Belli.

After he was sworn in by the judge, Mr. McCoy was led away to join Mr. Causey in the seclusion of the jurors' quarters on the seventh floor.

Judge Brown threatened to cite Joe H. Tonahill of the defense staff with contempt during the morning session.

The judge was irked when Mr. Tonahill, a 6-foot 4-inch, 265-pound giant from Jasper, Tex., kept asking a janitor who had sat as juror on two rape cases and a murder case why he felt he could put aside "bias and prejudice" against Jack Ruby.

The janitor had denied any bias, and the court warned Mr. Tonahill repeatedly to go on to another line of questioning.

Defense lawyers used their sixth and seventh peremptory challenges to reject prospective jurors at the morning session.

Bill Bohannon, a tall, lean salesman for a gas company, indicated he had formed an opinion from viewing television that Oswald had been shot. Even this was enough to disqualify him for cause, the defense argued.

Judge Brown disagreed. And when the district attorney said that Mr. Bohannon would be accepted by the state, the defense was obliged to use its sixth challenge.

Texas law gives 15 such peremptory challenges to each side. These challenges permit a lawyer to dismiss a prospective juror arbitrarily, without giving cause.

The defense's remaining nine challenges suffered further attrition before the morning ended.

Discounts Any Prejudice

Herbert Goellner, the 32d venireman called, admitted to having an opinion about who killed Oswald, but insisted, under sharp examination by the defense, that he could lay this opinion aside and listen to the case without prejudice.

Mr. Goellner, an elderly janitor wearing a shoestring necktie, said he had sat as a juror on a murder case and on two rape cases.

"Any of those defendants walking around now?" Mr. Tonahill asked casually.

There was loud and immediate objection from the prosecution table. Judge Brown instructed Mr. Goellner not to answer the question.

Mr. Tonahill kept hammering at the janitor's professed ability to purge his mind of opinion. He challenged Mr. Goellner to take a lie detector test.

Judge Brown intervened and said he would not allow this.

Meanwhile, Mr. Wade used a peremptory challenge to reject James C. Bland, 31, a store manager.

Mr. Bland pleased the defense by volunteering that some of his business associates had been so emotionally aroused by the assassination of President Kennedy that they might have been capable of killing Oswald.

Mr. Bland said he was emerging from Sunday services at the Love Lane Methodist Church on Nov. 24 at the time of the shooting of Oswald and consequently missed the "live" telecast. He had seen a rerun of the tele-

vision film, but he said he had not prejudged Ruby.

"With God's help I think I could be fair," said Mr. Bland.

"That's one of the nicest expressions I've heard since I've been in Dallas," cried Mr. Belli. He whispered with Jack Ruby, who nodded, then announced: "We are inclined to accept this juror."

The district attorney then dismissed Mr. Bland arbitrarily. He told reporters later: "We've used up only two strikes peremptory challenges and we have 13 left. We can afford to be selective now."

During the morning session Mr. Belli told Judge Brown the defense had already laid the groundwork for appeal if Ruby is convicted.

Insisting that any juror who

saw the televised slaying of Oswald should be disqualified, the defense staff tried today to subpoena Max E. Causey, who yesterday had become the first juror to be selected for the trial. Mr. Causey is being kept in seclusion in jurors' quarters in the courthouse.

Judge Brown quashed the subpoena attempt.

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