

# Board Can't Act On Ruby Case Now

Austin Bureau of The News

AUSTIN, Texas — The State Board of Pardons and Paroles cannot consider Jack Ruby's case while his appeal is pending, a member said Thursday.

Dist. Atty. Henry Wade had said earlier in Dallas that he is willing to recommend that the board change Ruby's death penalty to life imprisonment.

A. C. Turner, one of three members of the board, said it does not consider cases until convictions have become final.

"As long as Ruby's case is on appeal, we would not have jurisdiction," Turner said. "We could not consider it until there was a final conviction and he had been delivered to the custody of the Department of Corrections at Huntsville."

TURNER SAID the board gives "considerable weight" to opinions of the trial judge and prosecutor in deciding whether to recommend a reduction in a sentence, but considers other factors also.

Gov. John Connally would make the final decision on changing Ruby's sentence.

The board cannot set aside a death penalty, but can only recommend that the governor do so. On the other hand, the governor cannot spare the life of a condemned man without a favorable recommendation from the board.

George Christian, press secretary for the governor, said Connally never comments on a case before it is referred to him.

"I DO NOT KNOW what he would do in Jack Ruby's case," Christian said. "I have never heard him mention how he feels about it."

A Dallas jury sentenced Ruby to the electric chair for the murder of Lee Harvey Oswald in the basement of the Dallas City Hall after Oswald had been charged with assassinating President Kennedy in Dallas Nov. 22, 1963.

Ruby's plea for a new trial is pending before the Texas

Court of Criminal Appeals here. The court has agreed also to hold a separate hearing on the defense contention that Judge Joe B. Brown should have disqualified himself from presiding at Ruby's trial since the judge was writing a book about the case.

RUBY'S LAWYERS could dismiss their appeal and ask the pardons board to change his sentence to life imprisonment. Even with Wade agreeing to a reduction in the sentence, they would be taking a gamble.

If the board or Connally refused to set aside the death penalty, the defense lawyers might find themselves cut off from renewing their court battle to get a new trial for Ruby.

Ruby's lawyers could follow another course which might keep his fate in doubt for years. They could argue in the state courts for a new trial and, if unsuccessful there, go through the federal courts.

If they also failed there, they could turn to the pardons board.

STATE LAWS also provide another legal route for defense attorneys. If other moves failed, they could ask a jury to rule that Ruby had become insane after he was sentenced to die.

If found insane, he would go to a mental hospital and could not be electrocuted unless his sanity was restored.

A life sentence would require Ruby to spend at least seven years in prison.

State laws require the pardons board to review the case of every convict who has received credit for serving at least 15 years. By compiling an excellent prison record, an inmate could get this credit in seven calendar years. But the board would not be required to release Ruby when it reviewed his case.

If it saw fit, it could require the slayer to spend the rest of his life in prison.