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BOOK REVIEWS

Dallas Justice: The Real Story of Jack Ruby and his Trial. By Melvin M. Belli. New York: David McKay Co., 1964. Pp. 298. $5.50.

I have just finished reading *Dallas Justice* which purports to relate the real story of Jack Ruby and his trial. Being personally acquainted with Melvin Belli and knowing some of those facets in him which make him a most able lawyer, extremely knowledgeable, resourceful, and persuasive, it is difficult for me to believe that much of that which is written in this book are the thoughts and the words of Belli, the lawyer. It is noted that under the title of this book and the author's name are the words "with Maurice C. Carroll." Even though this name also appears, it is Mr. Belli who must have placed his stamp of approval upon that which is written and he who must either be lauded or criticized for statements therein made.

First, it must be recalled that this book was written not long after the Ruby trial. Ruby was convicted of murder and the sentence was death. Belli had been criticized by the president of the American Bar Association for statements he made upon hearing the verdict. Some sections of the press had accused him of improper motives in accepting the defense. They had proclaimed he was in the case for publicity purposes, and incidents of his private life (none, of course, involving moral turpitude) were publicized from coast to coast, some of which did not add to his stature in the public eye. In addition to all of this, and perhaps more important than anything else, the judge who presided at the Ruby trial, if this book properly interprets his actions, was something of that type of judge which one often encounters in county courts throughout the country—a judge who relies on the integrity and ability of a district attorney who himself during the trial of a criminal case is not abundantly overendowed with either. Nothing can be more discouraging to an experienced and well-trained trial lawyer than to encounter a trial judge who constantly sustains one side and overrules the other, or a judge who neither knows nor can apply the rules of evidence. This is not to proclaim that Judge Joe B. Brown, presiding judge in the Ruby trial, was among that select set who are guilty of this cardinal sin. I urge, however, that Belli honestly believed that

Judge Brown shared this guilt, and, if we were to accept this book as a guide, he was perfectly correct in that opinion.

With the above brief résumé of the major events preceding the writing of *Dallas Justice,* one can comprehend the disappointment, the disillusionment and the frustration which beset Mr. Belli as he launched into his authorship of *Dallas Justice.* There had to be a scapegoat—this was Dallas itself. Dallas was at fault for a Judge Brown, for District Attorney Henry Wade, and for the jurors themselves. Attorney Belli, after repeatedly referring to Dallas as a friendly city, a city of immense hospitality, a city in which everywhere he was extended the friendly hand, nevertheless in succeeding paragraphs deploys language bringing this same city into disrepute. He refers to it as a city wherein hate is bred, a city which has grievously sinned; in effect, a city that must purge itself of its wickedness before it can again expect itself to be re-accepted with good grace into a civilization worthy to call itself by that name. He even goes so far as to pin the responsibility upon Dallas for Kennedy's death.[1] In describing the citizenry of Dallas, he used such expressions as "the far right," the "conservatives." He forgets, however, that these were the people who were constantly advocating a stronger stand against communism, continued support of the UnAmerican Activities Committee, more perseverance in rooting out communists and exposing them in order to maintain them under closer surveilance. The author or authors, if you will, seem to ignore the fact that it was a dedicated communist who assassinated our beloved president. If any utterances by "the right" or "far right" that President Kennedy was not tough enough on the commies had impressed Oswald, then Kennedy would have been about the last man in America he would have wished to destroy.

In the light of this argument, if it holds validity, it is readily discernible that Belli's placement of blame on the city of Dallas for Kennedy's death pales into sheer nonsense. His setting this city apart from other American cities as a strange monstrosity in and of itself, a city that must purify itself of certain evil thoughts and deeds and then receive its proper sanctity through an absolution on condition that it sin no more, can be nothing but a figment of the imagination. People of one southern city are in general no different than those of another, and the same prevails in the North. People

[1] BELLI, DALLAS JUSTICE 5 (1964).

in the many communities throughout the country generally share the same feelings. All have their moments of love and of hate, of fear and of fortitude, of joy and of sorrow, of retribution and of forgiveness; and men and women everywhere in this nation are, in general, proud in their patriotism, immeasurably imbued with integrity, and honorably devoted to duty. The authors of *Dallas Justice* unfortunately have singly denied that these virtues prevail in that city as they do elsewhere—and there is not the slightest documentation in this entire work to substantiate this denial. Also it should be noted that the personal attacks upon the district attorney and his staff as well as the presiding judge, which intersperse this book throughout, are in bad taste. Also, derogatory references to Judge Brown's side quips, not on the record nor in the hearing of the jury, merely portraying a sense of humor, constitute, in my judgment, a violation of an implied confidential relationship and are likewise in poor taste. I would suspect that Maurice Carroll was responsible for many passages in this book.

Now, moving to Belli, the lawyer—the man whom I know. Ruby was indeed fortunate to have obtained the services of so distinguished a member of the Bar. Belli is more than an ordinary lawyer. The record of the Ruby trial, according to those few portions of the trial record contained in *Dallas Justice,* proves him the fighting tiger that he truly is. At no point did he fail to "protect the record." In a criminal case where the anticipated result seems so hopeless for the defense, the one thing Mr. Belli did, which some lawyers so often have failed to do, was to protect the record for an appeal. Here he was the supreme master. Why was this so? It was so because he knows the rules of evidence and is acutely aware of legal principles and the law applicable to a particular case. I have heard Belli, the lawyer, talk for four consecutive hours, without note and only an occasional sip of water, expounding factual situations in dozens of cases and expounding hundreds of legal principles or rules of evidence, and in some instances suggesting revisions in statutes or judicial thinking. His knowledge of the law is an attribute that none can deny—not even the 1964 president of the American Bar Association. This is a reason why he so ably protected the record for Jack Ruby. Perhaps he made a tactical mistake at one point in the trial—that was, when the trial judge sustained a prosecution objection to an answer by defense psy-

chologist Dr. Schafer, Belli continued to press his argument for its admissibility. Dr. Schafer was asked by the defense, in reference to Ruby, after the proper foundation was laid: "And what is your opinion with reference to his mental state?"[2] Judge Brown sustained an objection to the question. Belli explained that the two defense psychiatrists to follow, Drs. Towler and Guttmacher, had, in part, based their opinions that Ruby was legally insane upon this psychologist's answer to this question and without its answer the entire medical defense would be unavailable for the jury. Had Belli not pressed for the admissibility of Dr. Schafer's answer, the court's rejection of that testimony would have constituted reversible error. A new trial would have followed. Perhaps Mr. Belli really did believe a favorable verdict for the defendant would be returned, or that a new trial would bring no better result and wanted the testimony admitted, though we must recall his words that he felt from the beginning there was no chance for a favorable verdict in Dallas. Hindsight being better than foresight, perhaps any seasoned defense trial lawyer would also have pressed for the admission of Dr. Schafer's diagnosis.

There is one thing, however, which I believe the defense should have done which it failed to do—that is, it should have sworn Ruby. I say this from my own experience. I have defended several men in murder cases where the insanity defense was used, and all defendants testified, and a favorable defense verdict was had in each case. I think Ruby might have turned the trick. I particularly have in mind a case where a young man, just released from jail, came home, was informed by his daughter that a man had been sleeping with her mother. That night the husband stabbed his wife twenty-two times with a butcher knife. Death ensued within minutes. After intently listening to the defendant's recitation of the events, I decided he be sworn. He measured every word of his testimony. He answered question by question with deliberation and certitude—but he couldn't recall a single event after he grabbed the knife from the kitchen table—everything turned black. Unconsciously he was the greatest actor I had even seen. He didn't intend to act. He was absolutely honest and sincere—the jury sensed it. When it came to the point of the killing, he dropped his head for a full two minutes and never spoke a word. The court room was silent. Not a juror

[2] *Id.* at 173.

stirred; neither did the judge. Many spectators put their handkerchiefs to their eyes. The emotional strain was electrifying. The defendant was acquitted. I was thinking that if Ruby was sincere and being the emotional man that he is, couldn't he automatically have impressed a jury the same way—that once he reached for that gun everything went black? That, in effect, was the logical product of the defense medical testimony. Attorney Belli states that Ruby had no felony convictions, and certainly he was not vulnerable in that area.

What has just been stated is not to discount the theory of not putting a defendant on the stand in some cases. In fact I recently defended a murder case where the defendant was accused of bashing out a woman's brains with an iron bar in a city park and brain tissue was discovered the next day on the sweater he wore the night of the murder. The sweater was found under a mattress in his home. Insanity was not a defense. We had evidence that the brain tissue could have been that of a fish. The defendant did not take the stand. He was acquitted. However, I thought and still think that Ruby should have testified. From Mr. Belli's book,[3] we cannot be sure just who made the decision to keep the defendant from the stand.

Belli reminds us that he and his defense team were forced to sum up at night. A night session was ordered by Judge Brown for all the summations. This procedure would be unheard of in New York State; and in a case of such magnitude, especially with the jury and counsel being well worn at the end of a tiresome day, it is extremely doubtful that this, in New York, would not constitute reversible error. I cannot imagine any court around my part of the country issuing such a fantastic direction. Belli's plea to await the following day for summations should have quite an effect on the appeal.

Space does not permit a recitation of the alleged errors of the court, nor delving into their merits or demerits, nor of many other matters discussed in this work. However, if this review will serve to make any significant contribution to the administration of justice in this nation, there is something which has been on my mind a long time, a thing that occurred in this trial, upon which I would like to briefly touch. Too often do we find the prosecution in its

[3] *Id.* at 208.

summation threatening the jury with expressions that fall little short of blackmail. For example, Assistant District Attorney Alexander thundered, "I'm not going to defend Oswald to you, but American justice is on trial."[4] He asked the death penalty for Ruby "because he has mocked American justice while the spotlight of the world is on us."[5] And then by District Attorney Wade, "What do you want the history books to say about you . . .?",[6] and "Our laws are no stronger than the weakest heart on this jury,"[7] and "Let Communism know . . . that we believe in the right of law here."[8] Belli, in *Dallas Justice,* made no reference to these remarks as reversible error, though he may share such an opinion. Remarks such as these have no place in an American court room. Threatening a jury that justice is on trial, that the world spotlight is focused up on them and their verdict, or that they will have to answer to future historians, unless they bring in a guilty verdict is, in my judgment, a form of verbal blackmail. This type of argument should never be tolerated and should be condemned. A defendant, no matter what the charge, should have to face only facts. Certainly, any argument that tends to sway a juror into a vote for conviction out of fear of reprisal, fear of reputation, or fear of censure, has no rightful position in our system of jurisprudence. The more serious the charge the greater the evil that may result. While Mr. Belli took no notice in his book that the defense claimed error respecting this matter, I am sure this error will be claimed on appeal. It is quite possible that defense counsel likewise made transgressions.

In conclusion, *Dallas Justice* will long be remembered in history. It rehearses in intimate style much of the only trial that was borne out of the assassinating of a great world leader—our beloved former President John F. Kennedy—the greatest single shock this nation has received in our lifetime. Ruby did just what thousands of others felt like doing. But this is a nation ruled by law, where the forces of anarchy must never prevail. If Ruby is yet adjudged to have been legally insane, he should be acquitted; if not, the law will take its course. In either event let us say, "May the Lord have mercy upon him."

WILFRED E. HOFFMANN
MEMBER, NEW YORK BAR

[4] *Id.* at 222.
[5] *Ibid.*
[6] *Id.* at 250.
[7] *Ibid.*
[8] *Id.* at 251.

Foreign Enterprise in Colombia: Laws and Policies. By Seymour W. Wurfel. Chapel Hill, N. C.: The University of North Carolina Press, 1965. Pp. xv, 563. $10.00

This book is one of a series of studies in foreign investment and economic development sponsored by the American Society of International Law. The Society, armed with a grant from the Ford Foundation, awarded five research fellowships for studies of Colombia, India, Japan, Mexico, and Nigeria.

As recipient of the Colombia fellowship, the author, a member of the law faculty at the University of North Carolina, was charged with the duty of studying, describing and analyzing "the legal environment for foreign investment . . . in the context of . . . political, economic and social development."[1] He has discharged that difficult obligation in most thorough and able fashion.

The volume is divided into three major parts. Part One, "Colombia's Basic Assets and Liabilities," contains six chapters dealing with historical highlights, the people, natural resources, primary economic factors, international trade, and politics and government. Part Two, "Colombian Development Activities Promoting Investment," contains four chapters dealing with promotional organizations, regional development corporations, financial institutions and capital development, and programs to promote private investment. Part Three, "Colombian Legal Institutions and Their Private Investment Impact," contains, in addition to a closing chapter of general conclusions, five chapters dealing with the legal system, business organizations law, legal problems of government regulation of business, labor law problems, and tax law problems.

Except for the concluding chapter, each chapter is broken down into a number of subheads, the last of which contains the author's brief evaluation of the manner in which the matters covered in the chapter affect the climate for foreign investment. (It is, incidentally, to be regretted that the Table of Contents does not set forth these subheadings. The presence of an index does not wholly supply this deficiency.)

Within both the parts and the chapters the organization is masterly, the exposition is lucid and succinct, and useful informa-

[1] Merillat, *Foreword* to WURFEL, FOREIGN ENTERPRISE IN COLOMBIA: LAWS AND POLICIES at vii (1965). H. C. L. Merillat is Executive Director of the American Society of International Law.

tion crams every page. Only rarely has this reviewer encountered a book which pressed so much into a comparable space.

The author spent some six months in Colombia, collecting materials and consulting all available sources of information. The first of twelve useful Annexes lists more than 125 persons interviewed in Colombia, practically all of whom had specialized knowledge bearing upon one or more phases of the study. Obviously, the impressions formed in these interviews, which cannot be completely reproduced for the reader, were most important for the author's recurring evaluations. Nevertheless, the factual reporting, compressed as it is, is so objectively handled that the reader may, to a very considerable extent, find sound basis for independent appraisals of his own.

If, like this reviewer, one is induced by the solid character of their factual underpinning to rely upon the author's evaluations, the impression gained is that Colombia is making considerable economic progress, though not so much as one would like to see; that it still has many difficult problems, particularly in the field of lifting the general educational level; that its official attitudes and legal system are reasonably favorable to foreign (at least to American) enterprise and are more likely than not to remain so; and that selective investors may anticipate a reasonable profit without prohibitive risk. In the words of the author's concluding paragraph:

> There is no pat answer to the question of whether one should invest in Colombia. Its potential is great. Its credentials are impressive. It keeps good company. It welcomes strangers. It possesses undeveloped frontiers. This is the climate in which, historically, discriminating and energetic private enterprise has prospered.[2]

The book should be invaluable to American investors, present and potential, their legal, economic and political advisers, and all involved American, Colombian and international officialdom. It thus will well serve the basic purpose for which its preparation was undertaken. But it also carries a very large dividend for those who, while not immediately concerned with investment, are nevertheless interested, whether officially, pedagogically, or out of incorrigible private curiosity, in virtually any phase of the social, economic or political life of Colombia in particular or of Latin America in

[2] *Id.* at 465.

general. For all such the book is a gold mine of information and a major reference source.

As the author recognizes, situations may change, both in predictable and in unpredictable ways. However, any future student of change will find here a yardstick by which to measure the significance of the change. Upon this study, future studies may be solidly grounded.

The book, by its nature, is not bedside reading. Yet, considering the limitations imposed by the necessity of distilling and re-distilling the essentials, its literary quality is high indeed. As specific proof of this assertion this reviewer recommends a perusal of the author's introduction, which achieves the all but impossible result of placing mundane investment problems in a setting painted with an insight which is essentially poetic.

The author is to be congratulated on a thoroughly fine book.

HENRY BRANDIS, JR.

GRAHAM KENAN PROFESSOR OF LAW

UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

Law and Public Order in Space. By McDougal, Lasswell & Vlasic. New Haven: Yale University Press, 1963. Pp. xxvi, 1147.

No one would ever just sit down in the law library to write a book about law and space, but if he did it could not be conceived in such breadth and complexity as this book. And if one wrote without close attention to contemporary science—of all kinds, including not only astrophysics and astronautics but medicine and geology as well—he would reckon without the rationality of Professors McDougal, Lasswell, and Vlasic. And yet the authors are not men of science, as that term is traditionally used, rather they are policy-oriented, independent observers of the process we call law. Nevertheless the collection of relevant detail about the known nature and limits of our universe here displayed is nothing short of prodigious in a book designed to be read not by researchers in the natural sciences or even for the lay-public interested in those subjects. No, this scientific material is highly relevant to the inquiry being made and to be made in the future by authoritative decision-makers in an ever enlarging process of *social* interaction. This means that the authors' concern is not merely that their readers understand the

world they live in, but that they acquire sufficient sophistication in these matters to deal intelligently with the demands which man, living in an enlarged arena (no longer merely an earth arena but an "earth-space" arena), will make upon the institutions which have to date been fashioned to maintain order within the society of man wherever it extends itself.

Accordingly the great bulk of this big book (it contains over a thousand pages) is given over to presenting in systematic form the various kinds of claims that participants in the larger process of social interaction will be making.[1] Some of these claims will be familiar to the reader conditioned by contemporary events. For example, the chapters on "Claims Relating to Uses and Competences of Airspace," "Claims Relating to the Nationality of and Control over Spacecraft," and "Claims Relating to the Maintenance of Minimum Order." In this latter chapter there is the most comprehensive treatment of all modern instrumentalities of mass violence such as ballistic missiles and artificial satellites with their related technology but in a context of claims about the permissibility of intense coercion (of one or more major participants by one or more other major participants—nation-states) at present and with respect to expectations (among all participants) about the future use of such instrumentalities. These claims are in turn conditioned, the authors postulate, by a fundamental policy that what was once described as the international community, and now perhaps more accurately described as a world or earth-space community, be characterized by resort to rather more *persuasive* strategies than *coercive* ones and that when coercion is employed that it be for the widest interest rather than the narrowest. This policy, repeated at least in brief allusion in practically every chapter where clarification of policies is called for, is made quite explicit here: "the principle seeks to promote that stability in expectations of freedom from arbitrary coercions which is indispensable to the fullest cooperative activity in the production and distribution of values."[2]

Other chapters will be less familiar to the reader. There is, for example, the problem of access to and allocation of resources discovered in space. This relates not only to solid matter on the

[1] Part Three of the book is entitled "Probable Trends in Decision and Conditioning Factors" and extends from page 193 to page 1021.

[2] McDOUGAL, LASSWELL & VLASIC, LAW AND PUBLIC ORDER IN SPACE 407 (1963).

moon and the planets but also to the less often discussed possibilities abounding in space per se. Many different kinds of radiations are present in the void, and some of these, principally electromagnetic ones are "regarded as a potential source of energy for man's activities in space."[3] The central counterposed claims here will be sharable versus non-sharable access and appropriation. In certain respects dealing with the resources of space may be analogous to the way the international arena has institutionalized access to and appropriation of such great resources as the oceans, airspace, and international rivers. But the authors hasten to point out that any prescriptions worked out for space and its resources must be flexible, and conditioned in particular cases by relevant variables in context. For example, considered purely as a spatial-extension resource space may be regarded as sharable within the context of claims of access to it for travel and exploration and enlightenment; it may, on the other hand, be regarded as non-sharable in *access* if the particular resource in question be a newly discovered mineral which though existing in small quantities could if properly processed by one community "licensee" be used for treating human disease without discrimination as to nationality or ability to pay for its scarcity.

Closely related to the chapter on resources is the succeeding one entitled "Claims Relating to the Establishment of Enterprisory Activities."[4] The pragmatic corporation counsel may find here the most relevant discussion of his client's problems—how should a new space venture be organized, financed, with reference to what international agreements, with what degree of public control or regulation anticipated, and so forth. Already we have the precedent of a joint governmental-private space activity in the communications satellite project. World-wide weather reporting and a satellite navigation system are other possibilities for cooperation both among governments and across the line dividing public from private initiative. The important point here, however, is that whatever value is pursued—skills and enlightenment or wealth, respect and so on—and some projects are related to more than one—the activity ought to be subject to regulation by the wider community for policies or goals which serve the wider community. And the process of formulating the regulation or prescribing the expected norm should be explicit and timely enough to serve desired ends.

[3] *Id.* at 751.
[4] *Id.* at 872-973.

The authors give us these telling examples: "there were six cholera epidemics before the European nations signed the first International Sanitary Convention; not until the sinking of the *Titanic* did the major maritime states agree that radio inter-communication between ships should be obligatory . . . ."[5]

If the book were merely instructive in up-to-date science and technology, in probable kinds of claims to be anticipated, and in full reference to existing international prescriptions and institutions, it would be a most useful and authoritative work. But it is more. It is also a highly articulated set of postulates with which decision-makers in various arenas, domestic and international, can by asking the right question at the right time guide the destinies of all of us not only to a world community at peace but toward achievement of a community which is characterized by abundance and dignity for the individual.[6] If to the casual reader (and this should serve as a warning to those who would undertake a superficial "savoring" of these writings) the writing here seems exceptionally complicated, the language strange or unnecessarily inventive ("Why won't the old words suffice?"), the fault lies not in the comprehensive system of inquiry employed but in the seemingly intractable nature of the subject and in the need for a conceptual framework adequate to relevant intellectual tasks.[7] The subject matter of course is the highly complex process of social interaction and the process of decision in which authority is conjoined with effective control. The more ambiguous but traditional terms for most of what is meant by the preceding statement is the aggregate of inter-personal and inter-group relationships we call civilization and the way in which these relationships are governed by law. A speaking acquaintance with the outline features of the system here employed can, happily, be achieved by reference to earlier works of two of the authors. For

[5] *Id.* at 881-82.

[6] The human being is of course the individual occupying the central focus, but the authors do not exclude the possible need to accommodate our steps in space to any contact made with extraterrestrial life. See Chapter 9, entitled "Potential Interaction with Advanced Forms of Non-Earth Life." *Id.* at 974.

[7] The authors identify not one or two but *five* intellectual tasks to be performed by the legal adviser—not only must there be *description* of past trends and *prediction* of future decisions, there is also the job of *clarifying policy, recommending* prescriptions to effectuate policy, and *appraising* factors which affect decision. *Id.* at v. See also for itemization of related parts of the system, McDougal, *Law as a Process of Decision: A Policy Oriented Approach to Legal Study,* 1 NATURAL L.F. 53, 58 (1956).

example, Myres S. McDougal and Associates, *Studies in World Public Order,*[8] McDougal and Feliciano, *Law and Minimum World Public Order: The Legal Regulation of International Coercion,*[9] and McDougal and Burke, *The Public Order of the Oceans: A Contemporary International Law of the Sea.*[10] It is given to very few scholars in their lifetimes to cast a subject long the domain of numerous other men and of other generations into a completely new mold, but this is exactly what Professors McDougal and Lasswell have done in international law. And their contribution goes beyond merely finding new ways of talking about old problems. The concepts account not only for past decisions but also for inventive recommendations for meeting future issues. The price of this boldness has sometimes been unprofitable argument,[11] but the controversy—even at cross-purposes—is a small price indeed to pay for the promise of a fuller, more dynamic understanding of the subject by many students, an understanding of the subject realistically related to the world community we currently have yet oriented to the kind of community we can have and desire. It is a small price too, for the prospect of promoting more rational choice by practitioners among better clarified policy alternatives and supportive strategies. Accordingly it is hoped that this book will be widely circulated and studied in universities, law offices, and foreign ministries, and international organizations.

KENNETH L. PENEGAR

ASSISTANT PROFESSOR OF LAW
UNIVERSITY OF NORTH CAROLINA AT CHAPEL HILL

[8] Published in 1960.
[9] 1961.
[10] 1962. See also for basic definitions, LASSWELL & KAPLAN, POWER AND SOCIETY (1950).
[11] See, *e.g.*, Freeman, *Professor McDougal's "Law and Minimum World Public Order,"* 58 AM. J. INT'L L. 711 (1964); Falk, *International Legal Order: Alwyn Freeman vs. Myres S. McDougal,* 59 AM. J. INT'L L. 66 (1965).