

TRIALS:
Round One

Newsweek

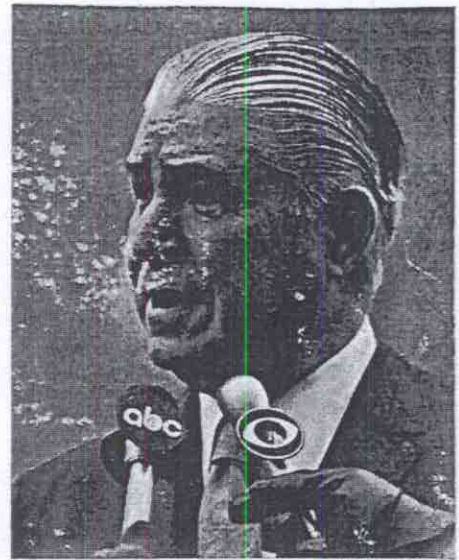
For the first time in three weeks, an air of palpable tension took hold of the tightly guarded Los Angeles courtroom and it was evident in the pale, tight-lipped stare of the defendant—Sirhan Bishara Sirhan. Just before a long lunch recess Sirhan's defense counsel made a surprise move to accept the tentatively seated jury; now it was the state's turn. Shucking a raincoat drenched by the downpour outside, prosecuting attorney David N. Fitts faced Judge Herbert Walker and announced: "If the court please, the people accept the jury." His words signaled the end of round one in the long-awaited trial of the man who killed Robert Kennedy.

Through the week the jury-picking process had lumbered along in the Sirhan trial and, coincidentally, in the highly publicized New Orleans trial of businessman Clay Shaw who is charged by District Attorney Jim Garrison with conspiracy in the murder of President John F. Kennedy. Beyond drawing bored yawns, the intensive jockeying by prosecution and defense in both cases to handpick their respective panels at times promised to be so interminable as to mock the traditional faith in any "twelve good men and true" in the jury box. But to the experienced attorneys on the cases, all the challenges and counterchallenges over the prejudices and sympathies of prospective jurors were possibly the most important part of the trials.

"The classic adversary system in the United States not only encourages—it demands—that each lawyer attempt to empanel the jury most likely to understand his argument, or least likely to understand that of his opponent," says flamboyant Texas attorney Percy Foreman, who was following the Sirhan and Shaw cases as he prepared his own defense for James Earl Ray in the upcoming Martin

Luther King murder trial in Memphis. "You don't approach a case with the philosophy of applying abstract justice—you go in to win."

And there was no question that the lawyers for and against Sirhan and Shaw were out to win. Toward that end, they systematically applied and refined many of the well-worn rules of thumb of jury selection. Jews, for example, as minority-group members, are traditionally supposed to be sympathetic to minority defendants—but would a Jew sympathize with a Jordanian anti-Zionist like Sirhan? (Sirhan seemed delighted to hear his crime termed a "political assassination" by one of the prosecuting attorneys last week. "Did you hear?" he whispered to his attorneys. "Just like the letters I get from the Arab countries.") And how would Mexican-Americans and Negroes feel about a man who had shot their candidate for President? "I wouldn't know what type of juror to choose in this case,"



Jim McKnight

Foreman: 'You go in to win'



Associated Press

Dymond (right) with Shaw: 'Hell'

swiftly toward final jury selection. Eight men (two of them Negroes) were provisionally seated in the first week, including one teacher and one engineer. Still, defense chief Irvin Dymond reported he was having "a hell of a time selecting the best jurors." The critical questioning focused on which books, films and articles about President Kennedy's murder each prospective juror had seen. Assistant D.A. James Alcock, handling preliminary proceedings for Garrison (who dropped in for just half an hour one day), also took advantage of his time before the jurors to plant the seeds of the state's conspiracy case against Shaw.

Such pre-conditioning of jurors to each side's argument is the one sure result of the unavoidably drawn-out jury selection system which holds sway in most of the U.S. Beyond that, few lawyers are really positive of what their psychological second guessing has actually achieved. Sirhan defender Cooper himself admitted it was a system of "by guess and by golly."

But that system seemed to satisfy his client. "I'm really happy with this jury," young Sirhan announced. "I'll sleep good tonight." And apparently so would his mother, Mary Sirhan, 55, who looked relieved for the first time since the trial began. "They're nice people," she said, judging the jury that would decide whether her son serves as little as five years—or dies in the gas chamber. "I see they are nice people. I'm glad."



UPI

Cooper: 'By guess and by golly'

admitted defense chief Grant Cooper. "We wanted a conglomerate group."

After examination of 59 prospects in nine days of questioning, a conglomerate group was just what they got: eight men, four women, including four Mexican-Americans and one Jew. Seven were Republicans, five Democrats (one of whom had voted for Bobby Kennedy in the California primary). Three had a mathematical background (a math teacher, an IBM computer programmer and an aerospace systems analyst). This was partly because Cooper felt he needed at least a handful of jurors with the education and sophistication to accept a complicated psychiatric defense ("diminished responsibility") in mitigating the admitted fact that Sirhan fired the fatal shots. That left some ten more days for selection of alternate jurors and a defense motion challenging the indictment before the testimony could finally begin.

In New Orleans, attorneys in the Shaw trial seemed to be moving rather more