



GRANT B. COOPER
... sought mistrial

State Case On Sirhan Outlined

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LOS ANGELES, Feb. 13—

The People of the State of California today began the prosecution of Sirhan Bishara Sirhan with the allegation that he not only assassinated Sen. Robert F. Kennedy but that he practiced and plotted the act days before the event on June 5, 1968.

A few hours before the Senator was shot down in the kitchen corridor of the Ambassador Hotel in Los Angeles, Prosecutor David N. Fitts told the jury in Superior Court, Sirhan was on a gun-range polishing his marksmanship and telling a bystander that, "It would kill a dog."

Sirhan, Fitts declared, spent days on the San Gabriel Valley Gun Range where he acquired "impressive accuracy" at rapid-fire. He was still practicing on June 4, said Fitts, and on that day told a passerby—Mike Soccoman—that he intended to go hunting.

Fitts addressed the jury and outlined his case following a last-minute effort by Sirhan's lawyers, Grant B. Cooper and

Emile Zola Berman, to get a mistrial because of adverse newspaper publicity in Los Angeles.

The Los Angeles Times, Cooper argued before Judge Herbert V. Walker, published on Wednesday a banner headline that said: "Sirhan Guilty Plea Now Appears Likely".

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SIRHAN, From A1

the story said that Sirhan "probably will plead guilty to first-degree murder in the slaying of Sen. Robert F. Kennedy . . ."

This constituted "prejudicial publicity," the lawyers maintained. Judge Walker denied their motion and ordered the trial to proceed.

Possibility of Plea

Cooper told the Judge that the speculation about Sirhan's possible plea of guilty "did not emanate from the defense." But many newsmen reported that both Cooper and Berman had suggested or hinted to them in recent days that a guilty plea was a distinct possibility.

As it turned out, however, the trial began with Sirhan's original plea—not guilty—still before the court.

Fitts promptly outlined his case to the jurors.

He said that while most Californians went to vote on June 4, 1968, Sirhan went to the San Gabriel gun range where he spent hours firing rapid-fire at a target with his .22 caliber pistol.

Sirhan Quoted

Fitts said at least five persons saw Sirhan there and that one asked him what he was going to do with the pistol.

"I will use it for hunting," Sirhan was quoted as saying. "It would kill a dog."

The deputy district attorney traced the gun that wound up in Sirhan's possession. He said the defendant and his brother, Munir, bought it in February, 1968, for \$25 from an acquaintance of Munir's.

Fitts said experts would testify that it was the gun wrested from Sirhan's hand the morning of Kennedy's death and that the bullets from that gun were the ones

that killed the New York Senator and wounded five other persons.

Seen at Reception

Sirhan was around the lobbies of the Ambassador Hotel at least one and one-half hours before Kennedy made his speech, claiming victory in the State's Democratic Presidential primary, Fitts said.

He said Sirhan had also been observed at a reception

for Kennedy on June 2, in the Palm Court of the hotel.

The mistrial issue was raised when the court opened today. Cooper argued that a series of court decisions had established that "prejudicial publicity" of the kind contained in The Los Angeles Times was ample grounds for dismissal of the Sirhan jury and for a mistrial ruling by Judge Walker.

'It's Futile'

The defense, he argued, no longer needs to show "actual prejudice" on the part of the jurors, but simply "a strong atmosphere of prejudice" in the community.

Judge Walker evidently thought otherwise. He asked the defense if it wanted him to question the 12 jurors and six alternates whether they had seen the Los Angeles Times article or had heard any radio or television broadcasts that stemmed from it.

Cooper said he did, but he shouted, "It's futile. It's futile."

The urbane, 65-year-old defense attorney protested that the jurors were not likely to "risk contempt of court" by admitting they had read or heard about the abortive steps toward a guilty plea. Free until last night when they were locked up in the Biltmore Hotel, the jury had been ordered to shun news stories and broadcasts about the case.

Claims Damage

Judge Walker said he felt the jurors' testimony, whatever it turned out to be, ought to be believed. Otherwise, he told Cooper, "our jury system might as well be disposed of."

Claiming irreparable damage from the publicity, Cooper pointed out that Sirhan has already admitted killing Sen. Kennedy in the Ambassador Hotel last June.

The jurors, he went on, have only to decide whether it was first-degree murder, second-degree murder or manslaughter.

"That's the only issue," he stressed. Consequently, he said, to "hear Sirhan is willing to plead guilty to first-degree murder" is highly prejudicial.

'Simply a Surmise'

Chief prosecutor Lynn D. Compton called The Los Angeles Times story "simply a surmise on the part of a newspaperman about what might happen in this lawsuit . . . pure speculation.

"There's no way any one can control that," Compton said in arguing against the defense motion.

Cooper agreed, up to a point.

I recognize that the press, under the Constitution, has the absolute right to print what they get from any sources they get," he said. The real culprit, he said, was the source.

'Deserving of Censure'

Cooper said he was not "pointing an accusing finger at anyone," but he said "whoever gave this information is the one responsible and he is deserving of censure."

Prosecuting attorneys responded to many newsmen's queries about the possible guilty plea earlier this week, but in hypothetical fashion. Despite what Cooper said, hints did come from sources within the defense camp in off-the-record remarks to some reporters. The source of The Los Angeles Times story, in any event, was not identified.

Judge Walker has ordered all those associated with the case not to talk about it to the press.

Each juror was questioned, one by one, in Judge Walker's chambers about what they might have read or heard. Apparently none said he had read The Los Angeles Times story. Several, it was understood, acknowledged hearing snatches on radio and TV, but said they quickly shut off their sets when the subject came up.

Dressed in his blue-gray suit, Sirhan switched back and forth in his seat from smiles to intense expressions. He had incredulous looks on his face as Cooper read aloud some of the news broadcasts about the guilty plea. Then he took a glass of water and broke into a broad grin.