

Death-Penalty Foe Snags Sirhan Trial

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LOS ANGELES, Jan. 16 — The prosecution unloaded one protest after another today in an effort to dump a prospective woman juror flatly opposed to sending Sirhan B. Sirhan to his death.

Deputy District Attorney John E. Howard told newsmen that to keep her on the jury could conceivably "slow down, if not eliminate, death penalties" in California.

The 24-year-old Sirhan could face the gas chamber if convicted of first-degree murder in the assassination of Sen. Robert F. Kennedy.

Superior Court Judge Herbert V. Walker withheld any final ruling on the juror, Mrs. Alvina N. Alvidrez. But he made it plain that his inclination was to reject the prosecution's effort to keep her off the Sirhan jury "for cause."

Mrs. Alvidrez, the 21st prospective juror called for questioning, set the stage Wednesday when she told the court that she could render a fair verdict on Sirhan's guilt or innocence, but that she could never send him or anyone else to the gas chamber.

"A guilty verdict, yes," she said. "The death penalty, no

... under no circumstances whatsoever."

The prosecution could still dismiss Mrs. Alvidrez with a peremptory challenge if they lose their bid to have her dismissed for cause. But Howard said he feared that to do this might pave the way for a charge by Sirhan's attorneys that there had been a "systematic exclusion" of individuals opposed to the death penalty.

To keep her on the jury, Howard went on, would raise prospects of a hung jury unable to choose between life imprisonment and the gas chamber.

Under California law, a sep-

arate trial is held to determine the penalty in first-degree murder cases. The same jurors usually fix the punishment, but a separate jury can be appointed "for good cause."

But this, Howard maintained, would, in effect, require the case to be tried all over again and quite possibly before a "truly death-oriented jury" that might produce fresh fair-trial problems.

The legal headaches stem from the U.S. Supreme Court's ruling last year in Witherspoon vs. Illinois and other cases, including a subsequent decision by the California Supreme Court.

In Witherspoon, the U.S. Supreme Court held that prospective jurors could not be dismissed for cause simply because they had conscientious objections to the death penalty.

Mrs. Alvidrez' declarations, however, raise new problems, thanks in part to California's two-act murder trials.

Judge Walker hinted that he might try to resolve the issue—if Mrs. Alvidrez is seated—by appointing an alternate juror to take her place for the penalty trial. Sirhan's chief defense counsel, Grant B. Cooper, has indicated that he would press for appointment of an entirely new jury where similar issues about the death penalty could be raised all over again.

For the moment, the judge took the arguments under advisement and proceeded with questioning of other prospective jurors. The eighth, Sharon A. Engle, the young wife of a Glendale mortician, was provisionally approved.