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The Spirit of Justice

The issue in the trial of Sirhan Sirhan was never as simple as the chief prosecutor tried to make it and the long, and apparently agonizing, deliberations of the jury reflect the complexity of the matter. The jury had the most difficult assignment the law asks citizens to undertake—to look into a man's mind and determine how far from normal it has been warped by mental illness. All the present indications are that this jury did its best to answer this question properly. The same jury now faces a second difficult task in deciding whether Sirhan shall live or die and we trust that the same serious process of deliberation, with justice, and not vengeance as the guiding spirit, will prevail in the jury room.

There was never any doubt that Sirhan murdered Robert F. Kennedy. Nor was there any doubt what the answer would be if the jury had been called upon to decide the summary question that Chief Prosecutor Compton put to it: "Is Sirhan a bad guy?" All the evidence made it quite clear that by anyone's definition Sirhan is a "bad guy." But the testimony of the psychiatrists, prosecution and defense alike, also make it clear that Sirhan is mentally deranged. There would have been little basis for criticism if the jury had decided that his illness had deprived him of the ability to "maturely and meaningfully premeditate, deliberate and reflect upon the gravity" of the murder and returned a second degree murder verdict. And there is no reason to quarrel with the jury's decision to the contrary; the task of judgment was given to its members and they have carried it out.

There is, however, reason to quarrel with some of the tactics of the prosecution. The brutal attack

made by Mr. Compton on psychiatry in general was unbecoming in a state where modern penology has made substantial advances. As long as the law puts upon the jury the task of peering into a man's mind, it needs all the help it can get from the medical profession. The role of a psychiatrist engaged in a public unveiling of man's innermost thoughts and emotions is never easy and a prosecutor who takes cheap shots at medical witnesses is no credit to his profession. Lawyers who lack either the ability or the patience to come to grips with the serious problems arising out of the relationship between mental illness and crime ought to stay out of cases of this kind.

The remaining portion of this proceeding underlines an aspect of California law which other states that leave the question of punishment to the jury would do well to copy. Although it is hard to think of any additional facts in this case the jury should be presented with before it sets the penalty, a split trial gives an opportunity for that presentation. How one feels about how this second trial should come out depends, to a large extent, on one's feelings about capital punishment. However, the fact that the jury originally had some doubt about the propriety of a first degree murder verdict—and it is proper to infer that doubt from the two days of deliberations—should argue in favor of a life sentence even among those who have no moral scruples against capital punishment. In our view, justice would not be served by a decision to kill Sirhan and the fears expressed by some that he will be released on parole in seven years unless he is executed are misguided. It is hard to conceive of a parole authority that would release a man convicted of such a crime in so short a time.