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The Sentencing of Sirhan Sirhan

It must be terribly difficult for a conscientious judge to look down at another human being and order that he be taken to a prison and killed. Yet that is the sentence 12 jurors, representing the people of California, have handed along to Judge Herbert V. Walker. It is not binding, however; he can override the jury's verdict and sentence Sirhan B. Sirhan to life imprisonment. And although that is asking a lot of a judge who refused to accept a guilty plea in exchange for a life sentence before the trial, there are several reasons that argue in favor of his doing so.

In the first place, there is little likelihood that Sirhan will ever be executed. The tide is running heavily against capital punishment in this country and, one way or another, it will be eliminated within a few years. In fact, a moratorium now seems to be in effect on capital punishment. No one has been executed anywhere in the Nation in the last 21 months, the longest period of abstinence from legalized killing in our recorded history. In California, where Sirhan may join 81 other prisoners on death row, only one execution has been carried out in the last six years. By the time the appeals and all the other delaying moves possible in Sirhan's case are exhausted, it is likely that this moratorium, or a new one, will have become permanent.

Beyond this, if Judge Walker sentences Sirhan to death he ensures an appeal of the conviction. There is a substantial possibility that the conviction will then be reversed because of the seizure of Sirhan's notebooks, a seizure that appears to have violated the Fourth and Fifth Amendments.

A reversal, of course, means another trial, another jury which must live over again those dreadful moments of June 5, and another public psycho-analysis of Sirhan. It is possible that Sirhan would not appeal a life sentence if for no reason other than the fear that a reversal might ultimately lead to another death verdict. Even if he insists on remaining in the limelight by appealing, appellate courts tend to look less critically at trials resulting in non-capital sentences than they do at those which send men to their death.

Looking beyond such pragmatic considerations, the death penalty is inappropriate in this case. Those who favor its use attempt to justify their stand in terms of vengeance or deterrence. If killing Sirhan is to be an act of vengeance, it ill suits a Nation that claims to be civilized. If it is to be an act of deterrence, it is misguided. Every assassin, unless he is so mentally disturbed as to be out of touch with reality, accepts instant death as a strong possibility when he commits the act.

It would be something if the case of Sirhan Sirhan could serve as a symbolic turning point in the history of capital punishment. His execution will not bring back Robert F. Kennedy. It will not deter future assassins. It would only serve to remove him from the earth, something that can be accomplished for all practical purposes by life imprisonment. Precedents indicate that Sirhan could not look forward to an early parole and would spend most, if not all, of his life in prison. Such a result in this case would demonstrate that in America justice is not colored by a sense of vengeance.