

A2621A

lbylyyxlbyllA

Sirhan NL -00

17 JAN 69

356 PPS

By GEORGE ZUCKER

Associated Press Writer

LOS ANGELES AP. — A woman was excused Friday from serving on Sirhan Bishara Sirhan's jury because she said she couldn't vote under any circumstances to sentence him to death.

Judge Herbert V. Walker granted a prosecution challenge to the temporary seating of Alvina Alvidrez, a graying hardware store employe in her 30s.

Mrs. Alvidrez had been seated tentatively as the eighth member of the jury to try the 24-year-old Jordanian charged with murdering Sen. Robert F. Kennedy.

The defense and prosecution seated Sirhan's 11th tentative juror, gave "conditional" seating to the 12th, and prosecutors used their first peremptory challenge.

They dismissed Alicia Duke, an accountant with the state lands division and a divorcee. She was the center of brief excitement when the court heard her son was missing.

The 10-year-old boy was later found to have been at his grandmother's home, and prosecutors said the incident had nothing to do with their challenge.

The defense and the prosecution each have 20 peremptory challenges with which to dismiss any prospective juror without stating a reason.

Mrs. Alvidrez was challenged as a tentative juror Wednesday when she told the court that "under no circumstances whatsoever" could she vote for a death penalty.

Sirhan's defenders, trying to keep him out of California's gas chamber, wanted her on the jury.

They cited a 1958 Supreme Court ruling known as the Witherspoon case, which held juries excluding persons opposed to capital punishment "constitute hanging juries."

But Judge Walker ruled Thursday that the Witherspoon case does not apply.

He granted the prosecution challenge, citing a week-old California Supreme Court ruling that a juror's unalterable opposition to the death penalty is "just and sufficient reason to be dismissed for cause."

Pipe-smoking chief deputy prosecutor Lynn Compton said he expects the defense to use the ruling as the basis for an appeal should Sirhan be convicted of first-degree murder.

"Let the appellate court take it headon," Compton told newsmen in a corridor. "If they're going to dump the death penalty in California, let them do it on this case."

The beginning of peremptory challenges is usually reserved until a full tentative jury is seated.

But the 12th tentative juror, Helen Woodworth, a retired legal secretary, was seated only "conditionally" when she told the judge she has a health problem.

The attorneys decided to go ahead with peremptory challenges while awaiting a statement from Mrs. Woodworth's doctor.

Compton said the first 12 tentative jurors all might be dismissed with peremptory challenges. He ~~ed~~ might use

all of
them?

The attorneys decided to go ahead with peremptory challenges while awaiting a statement from Mrs. Woodworth's doctor.

Compton said the first 12 tentative jurors all might be dismissed with peremptory challenges. He explained the defense might use all of its peremptory challenges to show any appeal judge it had used all of its opportunities to get a jury it considers desirable.

DH35pps Jan. 17