

Sirhan on Trial--A Burdened Case

R.F.K. MUST DIE. By Robert Blair Kaiser. E. P. Dutton; \$9.95.

Reviewed by
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THE police arresting Sirhan Sirhan that tragic night of June 4, 1968, took him from Jess Unruh, who admonished, "This one is going to face trial. We aren't going to have another Dallas."

There was, of course, a trial. Kaiser's account is a balanced summary that collates an endless amount of material into a cogent whole. The victim, the times, the defendant all combined to make a case that would burden any system of criminal jurisprudence. As Kaiser shows, it sorely burdened ours.

One immediate complication was the author's relationship to Sirhan. Kaiser and Sirhan joined in a contract. Kaiser got an insider status as defense investigator and historian with exclusive rights to Sirhan's story. Sirhan got half the proceeds from any of Kaiser's publications about him.

Sirhan, the defendant on trial for his life, and Sirhan, the newsworthy commodity, inevitably posed conflicting problems to Kaiser. The agreement is justified as a means of helping to finance Sirhan's defense. But Sirhan became an increasingly difficult client to his lawyers. His grandstanding, his obvious enjoyment of his new celebrity status were surely encouraged, albeit unwittingly, by the omnipresence of his personal biographer.

Counsel in Conflict

Sirhan had private counsel of outstanding repute. The book suggests there were too many; at one stage of the trial there were no less than four. They were often in conflict, mutually critical; one threatened to quit, some vied for the media limelight. *Hindsight* reveals Sirhan would have been better off with the Los Angeles Public Defender, an excellent office that would not have suffered the handicap of the Kaiser-Sirhan contract.

If there were too many lawyers, there were far too many psychologists and psychiatrists in the case. There could be no denial that Sirhan had killed Robert Kennedy. The task of the defense was to find some proof of mental aberration to avoid a verdict of first degree murder and the penalty of death.

The psychologists and psychiatrists, even those for the prosecution, agreed Sirhan suffered from considerable mental-emotional disturbance. But their diagnoses were varied, inconclusive, confusing.

Psychiatric Witnesses

Their performances recall Dr. Karl Menninger's dissatisfaction with psychiatrists as expert witnesses, "not just because we (are) disputed by our colleagues, badgered by opposing attorneys, suspected of being purchasable and discredited as scientists." Menninger sees guilt, competence and criminal responsibility as moral, not medical questions. He wants psychiatry to serve criminal justice after trial in helping courts to reach rational decisions at sentencing.

Kaiser does well in outlining the defense of "diminished capacity," a modern development of California criminal jurisprudence that he states is "the best and only bridge between psychiatry and the law."

The Sirhan defense had the assistance of Dr. Bernard Diamond, who helped to pioneer the "diminished capacity" concept. Diamond's opinion, reached after a long series of examinations, presented the defendant as psychotic, one who lacked the capacity the law associates with wilful, deliberate, premeditated murder. He saw Sirhan as a pathetic loner, a Palestinian buffeted by the trauma of a Middle East childhood: "War does much more than frighten little boys, it psychologically damages them."

Alone, Diamond might have been effective. But to the jury he must have seemed another in a succession of experts the prosecution asked it to ignore.

Kaiser rejects Sirhan's account of why he killed Senator Kennedy, "the story didn't make sense." He proposes his own explanation, grounded in conspiracy, and accuses the police of ignoring or discounting leads pointing to the involvement of others. He attempts to create mystery where none exists, perhaps to promote his book. Or he may be unable to accept the evidence he so well details.



DR. DIAMOND

Related Ironies

Kaiser describes two related ironies. The first occurs in a dialogue with Sirhan and cites the frailty of power in our violent times.

"One little punk, says Sirhan, then he tapped his chest — aimed his forefinger — and made a popping sound. Then, adds Sirhan, Lee Oswald ruled the world for that moment the trigger was pulled."

The second irony lies in Kaiser's excellent recreation of the assassination. His history states how unnecessary was the death of Robert Kennedy, a man walking innocently towards his killer without even the semblance of protection, public or private. The most elementary of precautions would have thwarted Sirhan.

Conspiracies, cloaks and daggers may be easier to accept than that unadorned, ironic and violent reality.