

Defense Calls Sirhan Trial Bluff

By BOB GREENE

LOS ANGELES — Mr. Jeanette Hendler, a prim, bird-like woman on the down-slope of middle-age, knew precisely what she wanted to say when she took her seat in the jury box at the Kennedy assassination trial in the Hall of Justice yesterday.

She was against capital punishment, but she could not find it in her heart to feel pity for 24-year-old Sirhan Sirhan, the accused murderer of Sen. Robert F. Kennedy. Over the long weekend, the prosecution had tried to bluff the defense

that it was willing to accept the first 12 jurors seated with only one challenge. The defense has called the bluff. And now the jury-picking had resumed.

Superior Court Judge Herbert V. Walker peered from under his bushy eyebrows and asked Mrs. Hendler if her feelings towards capital punishment would bias her as a juror. She replied: "I am unequivocally opposed to capital punishment under any circumstances, whether done by the individual or the state."

District Attorney John How-

ard rose to have her excused from the jury for cause, but defense attorney Grant Cooper, not fully sensing the import of her words, demanded the right to question Mrs. Hendler further. "Couldn't you just decide on his guilt or innocence?" Cooper wheedled. "I could not find him innocent," snapped Mrs. Hendler. "Well," asked the still persistent Cooper, "Couldn't you find him guilty of a lesser crime?"

Mrs. Hendler fixed her stare on the slim figure of Sirhan Sirhan. The fluorescent

ceiling lights glinted off her heavy, horn-rimmed spectacles. "No," she said. "He performed an execution." Sirhan's pleading smile faded and he shrank back behind his lawyer's, Cooper, embarrassed, looked down at the papers on his desk and in a quiet voice joined the motion to have her dismissed. Her head high, she walked from the courtroom, her footsteps making the only sound.

Cooper, he later admitted had violated the trial lawyer's bible. He had asked a question of a witness without

© 1969 National Periodical Publications

knowing what the answer would be. But there was a calculated gamble involved. Cooper desperately wanted testimony on the record that persons who oppose capital punishment are being barred from the Sirhan jury.

But, in a nation where polls indicate an even split in public opinion on the merits of capital punishment, Sirhan is not doing well. Thus far, 43 potential jurors have been questioned at the Kennedy assassination trial, and only two, including Mrs. Hendler, have been opposed to capital pun-

ishment. And both of these have said that they could not inflict it under any circumstances.

As a result, they are not covered by the Supreme Court decision in 1968 which said that persons cannot be barred from a first-degree murder trial simply because they oppose capital punishment in theory. This was the ruling last week of Judge Walker, a ruling Cooper intends to appeal. But meanwhile, he is getting little ammunition from the prospective jurors. Cooper admits he's puzzled at the lack of capital punishment opponents. Another Sirhan attorney, Emil Zola Berman of New York, shrugs and says: "California is another world."

When the trial left off last

Friday, the prosecution had stunned the defense by agreeing to accept a temporarily-seated 12-member jury after issuing only one peremptory challenge. The defense, sensing a prosecution bluff (to gain juror sympathy), retaliated with the same offer yesterday morning. Chief Assistant District Attorney Lynn Compton, his bluff called, withdrew the prosecution offer and immediately challenged a woman juror. The defense countered by challenging a male juror and the still-sitting panel fell to 10. The jury-picking is now expected to last for at least another seven trial days.

Copyright 1969, Newsday, Inc.

Astro-Color is a service mark of American Airlines, Inc.

Oakland Tribune 22 Jan 69