

JURY CONDEMNS SIRHAN TO DEATH IN GAS CHAMBER

Penalty Is Set in Kennedy Murder After 4 Ballots — Defendant Is Calm

JUDGE CAN EASE RULING

He Will Hear Defense Plea for a New Trial May 14 — Execution Unlikely Soon

By DOUGLAS ROBINSON

Special to The New York Times

LOS ANGELES, April 23 — Sirhan Bishara Sirhan was condemned to death in the gas chamber today for the murder of Senator Robert F. Kennedy last year.

The death penalty was returned by 12 solemn-faced jurors who had deliberated the fate of the 25-year-old Palestinian Arab for 11 hours and 45 minutes. The same panel found the defendant guilty of murder in the first degree last week.

George A. Stitzel, 57 years old, a press room foreman for The Los Angeles Times, said the original vote was 8 for death, 2 for life and 2 undecided. The count became 10 to 2 for death on the second ballot and 11 to 1 on the third ballot. Agreement was reached on the fourth.

Formal sentencing will not take place before May 14, when Superior Court Judge Herbert V. Walker will hear a motion for a new trial as requested by Grant B. Cooper, the chief defense attorney.

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Under California law, Judge Walker has the power to reduce the sentence to life imprisonment should he feel the death penalty is unwarranted.

Should the decision stand, however, it is extremely unlikely that Sirhan will die in the gas chamber in the near future because of various appeals and the unofficial moratorium on executions in the State.

Mr. Cooper said that after the decision had been read to

the crowded courtroom, he walked out of the courtroom and told him that "we did the best we could."

The attorney said Sirhan had replied:

"Even Jesus Christ couldn't have saved me."

The decision to send Sirhan to the gas chamber at San Quentin Prison was announced at 11:35 A.M. when Cooper said on Page 1, Column 1

clerk, Mrs. Alice Nishikawa, read a formal printed form that had been handed to the court by Bruce D. Elliott, the jury foreman. He told the jury in the above entitled action having found Sirhan Bishara Sirhan guilty of murder in the first degree, as charged in count one of the indictment, now fix the penalty of death. Mrs. Nishikawa intoned in a clear voice.

Then, pausing, she continued: "This your verdict, ladies and gentlemen of the jury, say you O.K. say you all?"

The seven men and five women in the oak jury box replied "Yes" in unison. They repeated their agreement only by O.K. as they were polled individually.

The defendant was impassive as the decision was read and the jurors were polled. He chewed gum and stared steadily at the jurors.

Most of the jurors gazed steadfastly at Sirhan, although several looked away at spectators or court officials.

There are now 81 prisoners on death row in San Quentin Prison. The last man to be executed there was Arton Mitchell, the killer of a policeman, who was sent to his death on July 12, 1967. Before Mitchell's death, the last execution in California took place in 1963.

The most recent execution in the United States took place in Colorado June 2, 1967.

In condemning Sirhan to the gas chamber, the jury dismissed the pleas of the defense lawyers that the defendant was "mentally ill" to die for his crime.

One defense attorney, Russell E. Parsons, said in his closing argument that the jury should show the world that "we don't execute sick people in this state."

Verdict Called 'Proper'

This afternoon, Lynn D. Compton, the chief deputy district attorney, said at a news conference that he felt the death penalty was "a proper verdict."

He said that the decision would act as a "deterrent" in that "it will put people on notice that we simply can't tolerate this kind of crime." The prosecutor, who directed the state's case since the trial

begin Jan. 7 said he thought the verdict reflected the feeling of the country since "Americans are largely in favor of capital punishment."

"I wouldn't say we feel any personal satisfaction in the outcome of this trial," he continued, "but I think we can justifiably take pride in the way the trial was handled."

Mr. Cooper told newsmen that the death penalty was part of the "overriding feeling of the community—the United States—the feeling for law and order."

He cited civil disorders in cities and on college campuses as creating a "backlash for the upholding of the law."

Mr. Cooper said his motion for a new trial would be based on these legal points:

That the judge did not exercise the proper discretion in not allowing a hearing between the defense and the prosecution that Sirhan be allowed to plead guilty to first-degree murder in exchange for a recommendation of life imprisonment.

That the grand jury was not properly constituted under a decision by the Supreme Court in that it did not represent a cross-section of the community.

That the seizure of Sirhan's notebooks from his home — notebooks that threatened the life of Senator Kennedy and other officials — had been illegal in that the police had had no search warrant or permission from the defendant, his family or the defense attorneys.

Will Happen Again

On the question of the social value of the death penalty, Mr. Cooper said that "if any of you think this will act as a deterrent to the kind of crazy mind that would assassinate a political figure, I will tell you that it has happened before and it will happen again."

He also maintained that "if the victim had not been Senator Kennedy, but some unknown, the district attorney would have accepted a plea of second degree murder."

Mr. Cooper said that when he and Michael A. McCowan, the chief investigator for the defense, went to see Sirhan shortly after the verdict was announced, "there were tears in our eyes."

"Sirhan had to reassure us," he said.

The lawyer, fearing an angry outbreak by Sirhan, who disrupted the trial several times during its almost 16-week duration, visited the defendant shortly after the jury signaled that it was ready to disclose the verdict.

"I told him not to make a fuss and to act like a man," Mr. Cooper said.

Cooper to 'Go Forward'

The defense lawyer, who has represented Sirhan without fee, as have the other lawyers, Mr. Parsons and Emile Zola Berman of New York, said he had "no choice than to go forward" and

that he would have to spend more money out of my pocket."

In finding Sirhan guilty of murder in the first degree, the jury also returned guilty verdicts on five counts of assault with a deadly weapon with the intent to commit murder for the wounding of five persons who surrounded Senator Kennedy when he was shot June 5.

The Senator was celebrating his victory in the June 4 California Presidential primary election.

After the jurors announced their decision this morning, they returned to the Biltmore Hotel, where they had been sequestered each night and each weekend since they were chosen in mid-February.

As the jurors walked off a sheriff department bus, looking haggard and exhausted, a crowd of newsmen and spectators pressed around the security men guarding them. A number of persons in the throng applauded.

The jurors, their heads down, ignored the applause.



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LEAVE LOS ANGELES COURTROOM: Grant B. Cooper, left, chief defense lawyer for Sirhan Bishara Sirhan and Adel Sirhan, brother of Senator Robert F. Kennedy's assassin.