and are characterized by paranoid, projective distortion of the characteristics and motives of others, loss of judgment, loss of discrimination, loss of control over impulses, particularly hostile, aggressive impulses.'" (Rep. Tr. p. 6349.) Richardson's report also concludes that "'in this psychotic ego state, he could not "know" the difference between right and wrong, as non-disturbed individuals in our culture would judge this difference.'" (Rep. Tr. p. 6350.) The "'over-all diagnostic impression is of a schizophrenic process, paranoid type, acute and chronic.'" (Rep. Tr. p. 6351.)

In his testimony Mr. Richardson further characterized appellant as a "very ill person who was descending further into mental illness," who was "severely depressed," and who had a "definite suicide potential" and a "definite homicidal potential." (Rep. Tr. pp. 6432-33.) Richardson found appellant "not able to maturely and meaningfully premeditate" to kill a human being, and unable for at least the past year or two to maturely premeditate or comprehend his duty to govern his actions in accordance with the duty imposed by law. (Rep. Tr. pp. 6437-38.) Richardson concluded that appellant's "comprehension

of his duty has been that of a kind of a soldier and a representative of his nation. He goes beyond what we would consider our duty. His duty is defined on a highly personal essentially psychotic basis. . . . [H]e is not capable of malice as defined." (Rep. Tr. p. 6439.)

On cross-examination Mr. Richardson admitted that he began with an "assumption" that appellant was paranoid because of what he had heard even before becoming associated with the case. (Rep. Tr. p. 6444.)

He noted that particular responses would be characterized by different psychological labels on the part of various authorities in the field of psychology. (Rep. Tr. p. 6462.) The Rorschach scoring sheets compiled by Richardson and Schorr have "certain major differences that are of interest," and "those differences may be clinically significant." (Rep. Tr. pp. 6474-76.) Of one of Schorr's scorings, Richardson could not "say it is a mistake because I don't know what Dr. Schorr's reasoning processes were as a clinician. As a clinician he is entitled to claim in this column anything he wishes, after he has made an analysis of the data." Richardson did not know what Schorr's "reasoning" was when Schorr placed appellant's designation

of an inkblot as a flying dove into a column labeled "Violence." Richardson had never seen Rorschach scoring columns designated as a paranoid column and a violence column, as Schorr had done. (Rep. Tr. pp. 6453-56.) Nor could Richardson understand Schorr's designation of a scoring column as "Fragmentation"; Richardson would instead label such a column "Pure Psychosis." (Rep. Tr. p. 6460.) Asked whether Schorr had properly labeled one column "neurotic anxiety," Richardson responded, "I can't see how he arrived at that. No, I cannot see how he would label it 'Neurotic.'" (Rep. Tr. 6466.)

Mr. Richardson also noted that clinical psychologists have the view that "mistakes" in test responses are not "happenstance," that for example "if you forget your keys in the morning, sometimes that might even have a lot of meaning." (Rep. Tr. pp. 6529-30.)

One of appellant's "critical item" responses was an affirmative mark next to the statement, "'I have strange and peculiar thoughts.'" Yet Mr. Richardson testified, "I have had thoughts that I regard as somewhat strange or peculiar." (Rep. Tr. pp. 6558-59.) Richardson testified that Deputy District Attorney Howard's

cross-examination of Schorr "worried" him and, thinking that "there might be some scoring errors" in his own work, he rechecked it and found "a couple" of errors. (Rep. Tr. pp. 6447-48.) Richardson related, "[I]n fact we make almost a fetish in psychiatry and psychology of seeing the psychologist as a fallible tool. We are always running off to Beverly Hills to have our blind spots probed and analyzed so that we can have our eyes opened a little bit to some of the areas where we might miss the boat." (Rep. Tr. p. 6446.)

With reference to the psychological testing of appellant, Richardson admitted that "the mere fact of an incarceration situation is very heavy in special stress," that appellant's condition was to some degree a "response to jail environment," that "the longer he was isolated and the more his isolation, it would deepen his psychosis," and that "only a person of a relatively normal personality structure can handle this well, this major kind of stress." (Rep. Tr. pp. 6478, 6487-88.)

Mr. Richardson admitted that his diagnosis of appellant as "suspicious, distrustful, [feeling] hostile forces in the world working against him," must be viewed in light of the fact that appellant

was isolated in custody, not permitted to mingle with other prisoners, and aware that he had killed a major political figure in American public life and that a great many people harbored malice against him for that reason. (Rep. Tr. pp. 6478-82.)

In January of 1969 at a "meeting of the defense team in Grant Cooper's office," it was decided to submit the "raw data" from Mr. Richardson's and Mr. Schorr's testing to two other psychologists, Georgene Seward and George De Vos, for further review. (Rep. Tr. p. 6337.) On his own Mr. Richardson also submitted his data to two additional psychologists, Steven Howard and William Crain. (Rep. Tr. pp. 6338, 6426-27.)

Mrs. Seward, a psychologist invited by Dr. Seymour Pollack, a psychiatrist who testified for the prosecution, to prepare a report, "examined each of the tests by each of the examiners . . . compared them. . . . [and] noted the differences and the similarities that were shown." (Rep. Tr. pp. 7213, 7226, 7296.) She knew the identity of the subject who had been tested. (Rep. Tr. pp. 7270-71.)

Her conclusions agreed with those of Messrs. Schorr and Richardson. (Rep. Tr. pp. 7234-35.) Her "over-all impression was that [appellant] was in a

paranoid schizophrenic reaction." (Rep. Tr. pp. 7229-30.) She concluded that the "indications suggest emotional lack of control, not any gross organic impairment." (Rep. Tr. p. 7228.) Appellant's "loss of control and the tendency to act out impulsiveness was clearly evidenced." (Rep. Tr. p. 7230.) On cross-examination she agreed that "the Rorschach has received a substantial amount of criticism by clinical psychologists and psychologists generally." (Rep. Tr. pp. 7287-88.) She said of Mr. Richardson's Bender test, "It shows very little and this is very superficial." (Rep. Tr. p. 7290.)

Mr. De Vos, as part of his training as a psychologist, had studied the influence of cross culture on psychological testing. (Rep. Tr. pp. 7297, 7306, 7501.) He was requested by Dr. Pollack to evaluate the raw data of Messrs. Schorr and Richardson. In particular, since he had studied Algerian Arabs, he was asked to consider the significance of appellant's Palestinian background in the test results. From his experience, "the psychodiagnostic tests work quite effectively in spite of cultural differences." (Rep. Tr. pp. 7306-07.) He found that "there were some responses in [appellant's] Rorschach which would be

more frequently found in an Arab subject, but that had nothing to do with the diagnosis," which in De Vos' opinion was that appellant "was a paranoid schizophrenic." (Rep. Tr. pp. 7308, 7311.) Mr. De Vos did recognize, however, that in his profession there are "behaviorist psychologists, who don't give any credence at all to the use of tests." (Rep. Tr. p. 7314.)

Steven Howard also received Richardson's raw data, and spent four hours interpreting it. (Rep. Tr. p. 6584, 6591-93.) Howard did not score the raw material since he was only consulted and was not asked for a formal report; as he explained, he "score[d] in my mind the different responses" and analyzed their content. (Rep. Tr. p. 6593.)

Mr. Howard scored appellant as "paranoid" but not as "schizoid" or having a "psychosis." (Rep. Tr. pp. 6596, 6600.) Appellant appeared to have a definite possibility of suicide and "some possibility of homicidal acting out." (Rep. Tr. pp. 6601-02.) Appellant's record was characterized by paranoia and depression, a state that he had probably been in for most of his life. (Rep. Tr. p. 6595.) Howard's conclusion was that appellant "is a very sick man who I

diagnosed as a borderline psychotic person but this I meant as an individual who can go in and out of psychosis, depending on the rather relative minor stresses which occur in daily life." (Rep. Tr. p. 6595.)

On cross-examination Mr. Howard defined "borderline" as meaning that "he is not classified as openly psychotic." (Rep. Tr. p. 6607.) Appellant was under a stress situation at the time the test was administered, being in custody and awaiting a murder trial. Mr. Howard recognized that a non-psychotic person with appellant's background in the Middle East could become very angry, show stress, and "demonstrate certain breakdowns" regarding his political feelings. It is psychologically normal to resent the acts of a political leader, and under the conditions of the Arab-Israeli war, a non-psychotic person could feel strongly enough to conclude that "taking a life is right." A normal person could "weigh the pros and cons," decide to take a life for a political purpose, and carry out the logical steps to effect this goal. (Rep. Tr. pp. 6603-04, 6609-12, 6614-16.) Appellant's actions in engaging in rapid fire at the range, in inquiring as to Senator Kennedy's intended route, and

in carrying out the assassination were consistent with a logical approach. (Rep. Tr. pp. 6616-18.)

Mr. Crain received the raw data from Richardson in March of 1969 and was asked by him to evaluate it. (Rep. Tr. pp. 6623, 6629-30.) From the test data Crain formed the opinion that appellant posed a definite possibility of suicide and some possibility of homicide. (Rep. Tr. pp. 6633-35.) He found that appellant was psychotic and "was suffering from schizophrenia of the paranoid type." (Rep. Tr. pp. 6635, 6638-39.)

Dr. Eric Marcus, a psychiatrist, was appointed by the superior court in June of 1968 to examine appellant at county expense. Dr. Marcus selected Mr. Richardson to aid him in making a diagnosis, and Richardson reported his psychological findings to Dr. Marcus. (Rep. Tr. pp. 6641, 6647-48.) Dr. Marcus also took into consideration the reports of the other psychologists, the written report of Dr. Pollack, and the books belonging to appellant, and he researched the subject of political assassinations. (Rep. Tr. pp. 6651-61.) Dr. Marcus interviewed Adel Sirhan and Mrs. Sirhan and examined appellant on June 15, July 3, October 12, and October 30, 1968. Each examination lasted between 20 minutes

and 2 hours. On one such occasion appellant was given six ounces of alcohol to consume. (Rep. Tr. pp. 6651-52, 6659.) However, Dr. Marcus testified, "the main things that I considered were his notebooks and the results of the psychological tests." (Rep. Tr. p. 6663.)

Dr. Marcus classified himself as "one of those psychiatrists who do not like to place labels upon a mental illness." He defined mental illness as "some aberration of a person's mind, whether it be in the way he uses logic or his ability to think logically, or in his emotions." (Rep. Tr. pp. 6661-62.) He believed in the efficacy of psychological test data but did not think that the interpretation of the test data "would be any better than the psychologist doing the interpretation." (Rep. Tr. pp. 6671-72.)

Dr. Marcus arrived at the following conclusion regarding appellant's mental state. Appellant had a mental illness on June 5, 1968. (Rep. Tr. p. 6662.) "In my opinion he started to show signs of mental illness at the very latest at the time following his horse accident, and that his adjustment in mental state had deteriorated since then. In not a particularly dramatic, fluctuating manner; in a rather slow, insidious

way." (Rep. Tr. p. 6661.) In Dr. Marcus' opinion appellant lacked "the mental capacity to maturely and meaningfully reflect upon the gravity of this contemplated act of murder . . . with malice aforethought"; appellant lacked "mental capacity and ability to comprehend his duty to govern his actions in accord with the duties imposed by law." Appellant's "mental disturbance was relevant and directly related to his political views and his feelings about Robert Kennedy." (Rep. Tr. pp. 6666-67.)

Dr. Marcus recognized that a person who is "mentally ill" can "plan," "form an intent to kill," and "entertain malice aforethought." However, he felt that appellant was incapable of "having malice within that technical sense" because appellant could not conform his "conduct, not to do anything wrong, and in [Dr. Marcus'] opinion Sirhan thought that he was really more or less the saviour of society." (Rep. Tr. p. 6668.) The fact that appellant's diary also declared his desire to kill Burt Altfillisch, a former employer, was "somewhat out of context" but did not change Dr. Marcus' opinion. (Rep. Tr. pp. 6669-70.) He found that appellant "in terms of psychology and personality . . . is an American . . . and that [his]

responses are Western-American and not the Middle-Eastern type of responses." (Rep. Tr. p. 6674.) Appellant's notebooks appeared to Dr. Marcus to be "very, very typical and very similar to the notebooks and the diaries and the letters that insane people have written who have threatened the President or who are now . . . hospitalized at Atascadero State Hospital." (Rep. Tr. p. 6663.)

On cross-examination Dr. Marcus testified, "Yes, in my opinion the defendant had the capacity to form the specific intent to kill, and specifically to kill Senator Kennedy." (Rep. Tr. p. 6763.) Dr. Marcus never found, and appellant never claimed, that appellant had amnesia at any time between his fall from the horse and his visit to the Ambassador Hotel. (Rep. Tr. p. 6735.) However, Dr. Marcus believed appellant's claim that he did not remember the events which preceded his being pinned to the serving table in the Ambassador Hotel kitchen. (Rep. Tr. p. 6784.) Nevertheless, Dr. Marcus testified, "I don't know whether he has real amnesia, retrograde amnesia, or whether he is malingering altogether. It could be any of those." (Rep. Tr. p. 6788.) Dr. Marcus "would say it would be a toss-up between malingering and

retrograde amnesia"; "more likely than not he did not have a bona fide amnesia," particularly since at the police station appellant appeared unconcerned and did not inquire why he was being held. (Rep. Tr. p. 6789.) When asked, "Then . . . when Mr. Sirhan claimed this amnesia in his interview with you, he was lying to you?", Dr. Marcus replied, "That's quite possible." (Rep. Tr. p. 6790.)

Dr. Marcus recognized that appellant's note-books evidently were purchased by appellant while he was attending Pasadena City College. The various writings were placed there "at different times" and "out of chronological order sometimes";

> "[T]hat accounts for what appears to be a lot of confusion in these note books, when you look at it and see that part of it is in pencil and in different kinds of ink, you are forced to the conclusion that he wrote something at one time and at another time he went back and just in the interest of conserving paper he made a few more notations wherever there was room to write." (Rep. Tr. pp. 6769-70.)

Dr. Marcus agreed that normal persons might "doodle and

write down their thoughts" and that such doodling "might look pretty bad . . . from the standpoint of analysis." (Rep. Tr. pp. 6772-73.)

Dr. Marcus felt that "the business of not looking for a job for a substantial period of time and reading in libraries subjects that interested him is evidence of deterioration." Appellant's subsequently going to work at the Pasadena health food store "may or may not have anything to do with any sort of mental deterioration." (Rep. Tr. pp. 6693-94.)

Of appellant's visit to the Ambassador Hotel two days prior to the assassination, Dr. Marcus said, "He didn't go to get involved and enjoy himself; he went there more as an enemy . . . trying to gather all of the information and sort of size things up . . . well, a sort of a spy operation." It is possible that appellant's purpose was to familiarize himself with the premises in preparation for returning on a later occasion to kill Senator Kennedy, or appellant "might have been out there with a gun on that day, to kill the Senator, but just did not have the opportunity." (Rep. Tr. p. 6779.) "[F]or someone who was planning an assassination, he asked some

reasonable questions." (Rep. Tr. p. 6782.)

On redirect examination Dr. Marcus testified that he had examined two history books which appellant purportedly had owned and annotated in his high school years. Following a sentence in one text reading, "'After a week of patient suffering the President [McKinley] died[, t]he third victim of an assassin's bullet since the Civil War,'" appellant had inscribed the words, "'Many more will come.'" (Rep. Tr. pp. 6790-91.) In the other text appellant had underlined a passage describing the assassination of Archduke Francis Ferdinand. (Rep. Tr. pp. 6793-94.) Dr. Marcus concluded, "So he is already thinking about assassination in high school," "for an awfully long period of time." (Rep. Tr. pp. 6791-92, 6794.) Appellant's early interest in assassination was significant because some of the recent studies on paranoid schizophrenics indicate that such a condition "takes about ten years to develop." (Rep. Tr. pp. 6796-97.)

When appellant was given six ounces of alcohol in the form of Tom Collinses, in order to duplicate the conditions "presumably" affecting appellant on the night of June 4th, his brain waves showed no abnormality. However, appellant had psychological

reactions to the alcohol, becoming extremely irritated and restless, and had to be physically restrained. Appellant was "very hostile" to Dr. Marcus, thought that Marcus was his brother, and took the deputy sheriffs to be Israeli soldiers. Appellant spoke of Senator Kennedy as if he were alive. Although he never related the actual shooting, appellant did say, "'That bastard isn't worth the bullets.'" (Rep. Tr. pp. 6811-13.)

Dr. Bernard Diamond, a psychiatrist, examined appellant at the request of defense counsel on eight occasions, for a total of 20 to 25 hours, between December of 1968 and March of 1969. (Rep. Tr. pp. 6845-46, 6861-62, 6876.) Dr. Diamond also studied appellant's notebooks and books, the testimony of appellant and some other witnesses, interviews with Mrs. Sirhan and Munir Sirhan, psychological test material, and reports of chromosome and electroencephalogram examinations (both examinations showing appellant to be normal). (Rep. Tr. pp. 6881-83.)

Dr. Diamond characterized portions of the notebooks as "in the nature of a political manifesto and . . . a product of his paranoid schizophrenic psychosis," and other portions as "written in a self-induced hypnotic trance, a dissociate state similar

to that in which I believe he committed this killing itself." (Rep. Tr. pp. 6879-80.)

Appellant claimed he had "no memory of the actual shooting and . . . of the notebook itself," but under hypnosis he was able to "recall the circumstances of writing the notebooks and . . . . produce very strikingly similar notebooks." (Rep. Tr. pp. 6849, 6880-81.) Under hypnosis appellant wrote his name over and over again "like a robot," repeatedly wrote "RFK must die," and responded affirmatively when asked whether Senator Kennedy was alive. (Rep. Tr. pp. 6949, 6956, 6959, 6960.) Appellant stated that this was "the way" he had written his notebooks at home. (Rep. Tr. p. 6962.) In response to questions appellant stated that he was not "crazy," that he was "writing crazy" as "practice" for "mind control," for the purpose of "self-improvement." Appellant said he had taught himself to write in this automatic fashion from Rosicrucian materials and that he had hypnotized himself with a mirror when he wrote the notebooks. (Rep. Tr. pp. 6962-66.) It was Dr. Diamond's opinion that an article which appellant had read, entitled "Put it in Writing" in the Rosicrucian Digest, had "started him out on this self-induced automatic

writing thing." The article counseled that one should write down repeatedly what one wanted to achieve as a goal. (Rep. Tr. pp. 6987-88.) Appellant stated that he had "willed" Senator Kennedy to die in order to prevent the delivery of airplanes to Israel. (Rep. Tr. p. 6990.)

Although Dr. Diamond was "impressed by . . . the extreme similarity of the writing here with the writing in the original notebook," he testified that with respect to appellant's discussion of the notebooks he "had the feeling more than at any other time in my examinations of Sirhan in the conscious state that he was being considerably less than truthful with me." (Rep. Tr. pp. 6948, 6959.)

Generally, appellant was "telling the truth" about some things, being "very evasive" about other matters, and "lying" as to others. It was "very difficult to determine what was the truth." (Rep. Tr. p. 6884.) The initial story which appellant told Dr. Diamond was essentially the same as that related in appellant's testimony, "in which it was very apparent that there were certain conspicuous omissions from the material which he was able or willing to talk about." (Rep. Tr. p. 6848.) Appellant told Dr. Diamond on several

occasions that he "doesn't want to be considered as mentally ill." (Rep. Tr. p. 6991.)

It was Dr. Diamond's opinion that "The combination of events which led to the assassination of Robert F. Kennedy by Sirhan . . . started with Sirhan Sirhan's exposure to violence and death in Jerusalem in 1948, and it continues with his immigration to the United States." (Rep. Tr. p. 6994.) These early childhood wartime experiences were significant in forming appellant's "pathologically sick mental and emotional condition." (Rep. Tr. p. 6887.)

Under hypnosis appellant denied that anyone had paid him to shoot Senator Kennedy or had known in advance that he would shoot him, and denied that any other Arab had had anything to do with the assassination. Appellant stated that he had thought "this all up" by himself, had consulted with no one, and was the only person involved in the shooting. He denied receiving help from any member of his family and denied the existence of any conspiracy. Asked why he shot the Senator, appellant at first mentioned "'the bombers to Israel'" and then replied, "'I don't know.'" He also stated that he was telling the truth. (Rep. Tr. pp. 6932-34.) Appellant maintained that he did

not enter the Ambassador Hotel on the night of June 4th with the intention of killing Senator Kennedy but that he wandered into the pantry after having four Tom Collinses and returning briefly to his car, thereafter drinking coffee in the lobby, where he became confused by the mirrors and bright lights. (Rep. Tr. pp. 6937-41.) Senator Kennedy and his party entered the pantry and "rushed at" appellant. Appellant's first thought was to shake hands with the Senator, but when the two of them came in almost direct contact, appellant pulled the gun out of his belt and fired at him repeatedly, shouting, "'You son-of-a-bitch.'" (Rep. Tr. pp. 6941-42.) Appellant then began to choke in the presence of Dr. Diamond, thereafter falling into a deep sleep. When wakened by Dr. Diamond, appellant claimed no recollection of what had happened under hypnosis. (Rep. Tr. pp. 6943-44.) Dr. Pollock was also present on this occasion at the invitation of Dr. Diamond. (Rep. Tr. p. 6941.)

Dr. Diamond gave the following interpretation of the events leading up to the assassination:

> "With absolutely no knowledge or awareness of what was actually happening in his Rosicrucian and occult experiments, he was

gradually programing [sic] himself, exactly like a computor [sic] is programmed by its magnetic tape, programming himself for the coming assassination. In his unconscious mind there existed a plan for the total fulfillment of his sick, paranoid hatred of Kennedy and all who might want to help the Jews. In his conscious mind there was no awareness of such a plan or that he, Sirhan, was to be the instrument of assassination.

"It is my opinion that through chance, circumstances, and a succession of unrelated events, Sirhan found himself in the physical situation in which the assassination occurred. I am satisfied that he had not consciously planned to be in that situation. I am satisfied that if he had been fully conscious and in his usual mental state he would have been quite harmless, despite his paranoid hatreds and despite his loaded gun.

"But he was confused, bewildered and partially intoxicated. The mirrors in the hotel

lobby, the flashing lights, the general confusion -- this was like pressing the button which starts the computor [sic]. He was back in his trances, his violent convulsive rages, the automatic writing, the pouring out of incoherent hatred, violence and assassination. Only this time it was for real and this time there was no pencil in his hand, this time there was only the loaded gun.

". . . .

"These are the psychiatric findings in this case. They are absurd, preposterous, unlikely and incredible because the crime itself was a tragically absurd and preposterous event, unlikely and incredible. But I am satisfied that this is how Sirhan Bishara Sirhan came to kill Senator Robert F. Kennedy on June 5, 1968." (Rep. Tr. pp. 6996-99.)

The ultimate diagnosis reached by Dr. Diamond was that appellant was suffering from a "chronic paranoid schizophrenia, a major psychosis, at the time of the shooting. He was in a highly abnormal dissociated

state of restrictive consciousness as a direct consequence of this psychotic condition." (Rep. Tr. p. 6877.) He also was "unable because of mental disease to maturely and meaningfully reflect upon the gravity of his contemplated act and . . . unable, because of mental disease, to comprehend his duties to govern his actions in accordance with the duties imposed by law." (Rep. Tr. p. 6881.) Dr. Diamond viewed appellant as "small and helpless, pitifully ill." (Rep. Tr. p. 6998.)

On cross-examination Dr. Diamond testified that until he first observed appellant, which was six months after the assassination, none of the "people who had seen him, including psychologists and psychiatrists and his lawyers, nobody else really had the proper whole story of Sirhan." (Rep. Tr. p. 7094.) However, until the trial Dr. Diamond never knew that in April of 1968 appellant had told the garbage collector, Alvin Clark, that he was "going to kill that s.o.b." Senator Kennedy. (Rep. Tr. p. 7099.) In any event Dr. Diamond did not believe that appellant had made the foregoing statement; Dr. Diamond believed Mr. Clark was "incorrect" in his testimony, although he did not "know anything about the witness except for the statement." Recognizing "that Sirhan was

consciously selecting certain material to give [Dr. Diamond] and consciously withholding other material, because he didn't trust [him]," Dr. Diamond testified, "I prefer to believe Sirhan." (Rep. Tr. pp. 7099-7100.) Appellant had lied to others about his having been at the Ambassador Hotel on June 2d because he "didn't trust the other persons." (Rep. Tr. p. 7098.)

At the February 2, 1969 conference in Mr. Cooper's office, Dr. Diamond had stated that various members of the Sirhan family, including appellant, were giving Dr. Diamond "the grossest kind of evasion and deception" with respect to some matters. (Rep. Tr. pp. 7045, 7048.) Dr. Diamond also conceded that a psychiatrist does not necessarily obtain the truth from a subject who is under hypnosis; he may obtain "fantasies" and "outright lies." (Rep. Tr. p. 7175.) Hypnosis "must not be mistaken for truth serum." (Rep. Tr. p. 7176.) Nonetheless Dr. Diamond felt, "I think I had a fairly good idea of when [appellant] is lying and when he is telling the truth; and what he lies about and what he tells me the truth about." (Rep. Tr. p. 7056.)

Dr. Diamond believed appellant's statement

that, when he went to the Ambassador Hotel on June 2d, he "loved" Senator Kennedy. (Rep. Tr. p. 7132.) Dr. Diamond did not view appellant's visit to the shooting range on the day of the assassination as "indicative of some kind of premeditation and deliberation." (Rep. Tr. p. 7109.) Appellant fired at the range only because such activity was one of his "chief emotional outlets." (Rep. Tr. p. 7112.)

At the February 2d conference Dr. Diamond had also stated, "But all my clinical material points largely to this dissociative hysterical, rather than a psychotic picture," and "the hatred of the Jews is more than one would expect but I don't see it as a psychotic type of affair." (Rep. Tr. p. 7194.)

Dr. Diamond tried his "very best to get . . . through" to appellant "that the legal strategy of the defense is that there was no premeditation or deliberation." (Rep. Tr. p. 7108.)

REBUTTAL

A. Non-Clinical Evidence of Appellant's Condition on June 5, 1968, and at the Time of the Writing of the Notebooks

Sergeant Frank Patchett of the Los Angeles Police Department, who in the course of operating the

"drunk wagon" in the Central Los Angeles area had observed hundreds of persons who were under the influence of alcohol, observed appellant at the Rampart station briefly at approximately 12:45 a.m. on June 5, 1968. He also was one of the officers who drove appellant to the Police Administration Building at approximately 1:30 that morning. (Rep. Tr. pp. 7390-93.) Sergeant Patchett formed the opinion that appellant was not intoxicated, that he was "definitely" not under the influence of alcohol to any degree. He noticed no physical impairment on appellant's part other than a limp caused by a leg injury sustained during the scuffle. (Rep. Tr. pp. 7394-95.)

Sergeant Adolph Melendrez of the Los Angeles Police Department also observed appellant at the Rampart station at 12:45 a.m. and remained with him until the arraignment later that morning, speaking with him in close proximity. (Rep. Tr. p. 7381.) On the basis of his twenty-eight years' experience in police work, during which he had seen a great number of persons who were under the influence of alcohol, he formed the opinion that appellant was "completely sober." Sergeant Melendrez "detected no odor of alcohol. [Appellant's] demeanor was that of a sober man." (Rep. Tr.

pp. 7380, 7382.) Appellant was "very intelligent," "very coherent," and "[c]ertainly . . . wasn't confused." (Rep. Tr. pp. 7385-86.) Sergeant Melendrez could not detect anything which would indicate that appellant was "other than a normal person." (Rep. Tr. p. 7387.)

George Murphy, an investigator from the district attorney's office with twenty-three years' experience on the Los Angeles Police Department, was in the presence of appellant at the Police Administration Building from 2:00 a.m. to 6:00 a.m. on June 5th. Mr. Murphy was in close proximity to appellant, conversing with him, and likewise formed the opinion that "[t]here was no sign of intoxication." (Rep. Tr. pp. 7374-76.) Appellant was "very lucid" and calm and appeared as normal to Mr. Murphy as anyone he had ever dealt with on a homicide charge. (Rep. Tr. p. 7377.)

Mr. Sloan, the handwriting expert, was recalled and testified that he had compared appellant's notebooks and the envelope found in the trash area behind the Sirhan residence with the "automatic writing" samples which appellant produced under hypnosis for Dr. Diamond. Mr. Sloan "found no qualitative breakdown in the notebooks comparable to that which [he] saw in this exemplar of automatic writing," nor did he find such

breakdown in the writing on the envelope. (Rep. Tr. pp. 7426-28.) Mr. Sloan's comparison of the various writings led him to conclude that appellant's writing in the notebooks and on the envelope was not done in a state of hypnosis. (Rep. Tr. p. 7431.)

B. Psychological and Psychiatric Evidence

Mr. Leonard Olinger, a psychologist, read in the newspapers about the psychological testimony being given in the present proceedings and was "troubled by the kind of inferences made from that data" and by Mr. Schorr's "plagiarism." (Rep. Tr. pp. 8041, 8188-89, 8216, 8223.) To Mr. Olinger, some of that testimony appeared "unreliable" and "sounded as if it were unwarranted by the material that was being presented in support of it." (Rep. Tr. pp. 8213-14.) After contacting the district attorney's office and volunteering some information, he was furnished with a copy of the reports and testimony of Mr. Schorr and Mr. Richardson and portions of the testimony of the other psychologists who appeared in the present proceedings. (Rep. Tr. pp. 8050, 8189, 8214.)

There were ten basic precautions concerning

psychological testing which Mr. Olinger communicated to graduate students whom he instructed. It was Olinger's opinion that any clinical psychologist should observe them. (Rep. Tr. pp. 8059, 8061.) These consisted of (1) employment of a battery of tests rather than a single test, (2) strict adherence to prescribed procedures, (3) absolute integrity in test scoring, (4) care neither to overlook anything in the data nor to project into the data what is absent, (5) acceptance of the simpler explanation for a phenomena rather than seeking out the exotic explanation, (6) arriving at a diagnosis based on the actual data rather than fitting the data into a preconceived notion, (7) achieving a "global" view of the subject which would include socio-economic, educational, cultural, intellectual, and sexual factors as well as reference to the norm, so that a "highly biased impression" may be avoided, (8) avoidance of being consciously or subconsciously influenced by knowledge of the individual, (9) post-testing validation of blind test score analysis, and (10) employment of terminology which is objective rather than overly technical or overly emotional. (Rep. Tr. pp. 8061-73.)

Mr. Ollinger reviewed the results of the

battery of tests administered to appellant with the foregoing principles in mind. (Rep. Tr. p. 8098.) He concluded that Schorr's and Richardson's diagnoses were deficient in not adhering to various of these principles, in particular those numbered (2), (3), (4), and (10). (Rep. Tr. pp. 8062, 8064, 8103.) Both men, in Ollinger's opinion, overlooked "some strength or possible positives" in appellant's personality. (Rep. Tr. p. 8064.)

In the MMPI tests upon which Schorr and Richardson based their diagnoses, Ollinger found answers labeled "paranoid" which "might be explained more by the position or situation of Mr. Sirhan than by the actual test." For example, some of the test scores indicating depression and anxiety were attributable to the fact that, unlike different scores (obtained four months later), they were obtained within a month of appellant's arrest. If the various objectionable scorings were removed, appellant's profile would score "within the normal limits." (Rep. Tr. pp. 8109-15, 1887, 8121-23.) Moreover, a low score can be indicative of lack of motivation to perform the test, inattention to detail, or "the examiner's sub-interaction," in

addition to inability to perform the test. (Rep. Tr. p. 8132.)

Neither Schorr nor Richardson followed proper technique in administering the Wechsler test. (Rep. Tr. pp. 8136-38.) Some of their test scores actually show "personality strength" on the part of appellant. (Rep. Tr. pp. 8139-40.)

Ollinger found numerous instances of improper technique in Schorr's TAT test. (Rep. Tr. pp. 8142, 8146, 8151, 8153-55, 8157, 8162-63.) The cards selected by Schorr for display to appellant were likely to evoke depressive responses. (Rep. Tr. pp. 8153-55.) Many of those responses in which Schorr found significance, were common-sense and not unusual. (Rep. Tr. pp. 8149, 8152.) Of one of Schorr's conclusions, Ollinger testified, "there's a great deal read into the data which really is not present in the data." (Rep. Tr. p. 8149.) Similarly, Richardson's TAT test results were not highly unusual; they indicated neurotic rather than schizophrenic thinking on appellant's part. (Rep. Tr. pp. 8158-60, 8165-67.) Appellant's "blowups" in court also were more indicative of neurotic behavior than of schizophrenia. (Rep. Tr. p. 8097.)

There were "a number of apparent inaccuracies" in Schorr's scoring of the Rorschach test (Rep. Tr. pp. 8171-75), and the protocol prepared by Schorr was inadequate for review by other trained clinical psychologists. (Rep. Tr. pp. 8167-70.) The responses which appellant gave on Richardson's Rorschach were not unusual and suggested only the "barest hints" of schizophrenia. Rather that test was indicative of a neurotic condition. (Rep. Tr. pp. 8176-78, 8182.) What was unusual, and unprecedented in Ollinger's experience, was appellant's reference to "color shock" in responding to a Rorschach card proffered by Richardson. "It is almost as if [appellant] had somehow been instructed or advised or otherwise informed about this particular term." (Rep. Tr. pp. 8080-81.)

On the basis of the various tests administered by Schorr and Richardson, Ollinger would diagnose appellant as a "borderline schizophrenic with primary neurotic features." Ollinger concluded that appellant had capacity to form a specific intent to commit murder, to premeditate maturely and meaningfully, and to harbor malice aforethought. (Rep. Tr. pp. 8186-87.) Appellant also had "the mental capacity to comprehend his duty and to conform it to the dictates of society." (Rep.

Tr. p. 8235.)

Mr. Ollinger testified,

> ". . . I believe that if the various consultants were called in -- Dr. Crain, Dr. Howard, Dr. De Vos, Dr. Seward -- if they had been exposed to the full range of information that I had been exposed to; and if they had had drawn to their attention the same omissions, inconsistencies, ambiguities, contradictions and deficiencies in the material [of Schorr and Richardson]; that they would have altered the impressions which they ultimately gave." (Rep. Tr. p. 8236.)

Dr. Seymour Pollack, a psychiatrist, trained clinical psychologist, and specialist in hypnosis (Rep. Tr. pp. 7454, 7456-57, 7466), spent 24 hours examining appellant during the course of several personal interviews, observed appellant 17 hours in court, and devoted the balance of the 200 hours which he spent on the present case in interviewing members of the Sirhan family, reviewing taped conversations between appellant and police officers which took place during the first hours and days after appellant was

apprehended, reviewing appellant's notebooks, the observations of jail physicians, the psychological examinations, material from the files of the police, the district attorney's office, and the F.B.I., the testimony and interviews of witnesses, and materials on presidential assassinations. (Rep. Tr. pp. 7463-66, 7469-70, 7478, 7557.)

Dr. Pollack testified that "psychological tests by themselves aren't to be taken as absolute evidence in any way"; they are "material of significance in the over-all evaluation; . . . an additional bit of information" which "may or may not be very reliable." (Rep. Tr. pp. 7466-68.) He felt that "all psychological instruments -- these as well -- particularly projective tests, tend markedly to accent and exaggerate the so-called psychopathology." (Rep. Tr. p. 7764.)

The psychologists Seward and De Vos entered the case at the suggestion of Dr. Pollack, who felt that the psychological conclusions of Richardson and Schorr needed further evaluation in light of appellant's cultural background. (Rep. Tr. pp. 7474-76.)

Recognizing that appellant was "mentally disturbed," Dr. Pollack nevertheless concluded that "the assassination of Senator Robert Kennedy was

triggered by political reasons with which he was highly emotionally charged." (Rep. Tr. p. 7480.) Despite appellant's "traumatic experiences" during his early life, "at no time did [Dr. Pollack] obtain from either Sirhan or the family members any evidence of . . . traumatic trance or significant peculiar behavior." (Rep. Tr. p. 7482.) There was no

> ". . . material that indicates that Sirhan himself was exposed in any more severe or more intense situation tha[n] any other members of his family or any other members of the Arab community; no evidence that his emotional responses, which were those of fear, fright, were significantly different from others in any way except . . . . as being more tense, having more anxiety. . . ." (Rep. Tr. p. 7483.)

The "emotional disturbance" to which appellant and others were exposed was "not an everyday, constant circumstance." (Rep. Tr. p. 7484.)

Appellant's fall from the horse did not result in "any significant neurological behavior or personality change." (Rep. Tr. pp. 7529-30, 7532-33.)

There were no significant signs of severe character deviation or paranoia which would have been apparent to Dr. Pollack had he come in contact with appellant prior to the assassination, and Pollack "would not have been able to forecast in any way that Sirhan would have done what he did." (Rep. Tr. pp. 7485-86.)

The interest which appellant had expressed in Rosicrucian philosophy, mind power, and the occult

> ". . . was not only a consequence of his continued interest in exploring things about him, which he had always been interested in, but more particularly it was now Sirhan's way of exploring . . . , now that he felt that he was a failure in other ways, how he himself could become a success . . . , strong . . . , rich. . . ." (Rep. Tr. p. 7539.)

Dr. Pollack considered it significant that appellant was not "psychotically secretive" about his "very bizarre experiments," that appellant discussed them with his friends and his brothers, and that he did not firmly believe in them. (Rep. Tr. pp. 7541-43.)

Appellant's ideas concerning Senator Kennedy,

President Johnson, Ambassador Goldberg, the Arab-Israeli conflict, American Jews, and the United States' political system and foreign policy in the Middle East did not reflect delusional thinking, psychosis, or paranoia. (Rep. Tr. pp. 7521-23, 7607-08.)

Appellant "had dabbled with the idea of assassinating . . . other people" who shared the same pro-Israeli attitude as Senator Kennedy but decided that the Senator should be the person "initially" assassinated in preference to President Johnson and Ambassador Goldberg. (Rep. Tr. pp. 7547-48.) Dr. Pollack testified, "I don't believe that Sirhan expected to be caught. I don't believe he wanted to be caught" (Rep. Tr. p. 7549), and testified further (on cross-examination) that in his opinion appellant "would have possibly killed other people" had he been successful in escaping into the crowd at the scene of the assassination. (Rep. Tr. pp. 7937-38.)

In appellant's eyes Senator Kennedy was an "opportunist" who had "sold out" to pro-Israeli factions for political gain. (Rep. Tr. p. 7549.) Appellant "killed Kennedy because he hated him for what he stood for and . . . Sirhan . . . saw himself as a defender of the Arab cause." (Rep. Tr. p. 7574.)

Appellant told Dr. Pollack on several occasions that the Arab proverb, "'A friend of my enemy is my enemy,'" had "influenced him and was his philosophy of life; that he believed very, very strongly in this point of view." (Rep. Tr. pp. 7563-64.) Appellant was very much influenced by the television program in May of 1968 in which Senator Kennedy had detailed his pro-Israeli sympathies; this program convinced him to kill the Senator. (Rep. Tr. p. 7569.)

Dr. Pollack was "unable to accept Sirhan's denial of his recall for his written notes as a genuine amnesia" and interpreted it "as an attempt to avoid some serious condition that would be attributed to his writings, that would be interpreted as evidence of planning, premeditation of killing Kennedy." (Rep. Tr. pp. 7551, 7554.) Dr. Pollack believed "that much of the notebook material is doodling" and that appellant's repetitiveness, such as in his use of the phrase "'R.F. Kennedy must die,'" was indicative of "Sirhan's attempts to strengthen his intention, . . . his courage, . . . his capability to carry out his intention to kill Kennedy." This was "consistent" with what appellant had read in the fields of mind control, Rosicrucian philosophy, and self-hypnosis, with appellant's

experimentation in mind control, and with "all of this material read by him that emphasized that repetition of ideas by writing it would increase the writer's ability to execute even very difficult plans." Appellant had always been a "very sensitive young man" with a "high regard for human life" and had to overcome this conviction by building up his courage and intention to carry out his plan. (Rep. Tr. pp. 7554-56.) His repetition of the word "die" was the same for him as underscoring the word for emphasis. (Rep. Tr. p. 7940.)

Dr. Pollack formed the "definite opinion that none of these writings by themselves or in total are evidence of psychosis." (Rep. Tr. p. 7556.) He found in appellant's notebooks none of the bizarre qualities evidencing psychosis which he had found in many of the letters written by other political assassins or by persons who had threatened President Johnson. (Rep. Tr. p. 7557.)

In his interviews with Dr. Pollack, appellant "described" and "emphasized" as "currents feelings" all of the feelings which he expressed in the notebooks; yet appellant denied that the notebooks expressed feelings that he had had. To Dr. Pollack this

represented a "considerable degree of inconsistency." (Rep. Tr. p. 7565.)

Appellant's target practice at the shooting ranges "was carried out for the purpose of improving his shooting skill and improving his accuracy, with the intent at that time, and the hope, of killing Senator Kennedy." (Rep. Tr. p. 7569.) Appellant also "went to the Ambassador Hotel with . . . the conscious intention of killing Senator Kennedy." (Rep. Tr. p. 7570.) There was nothing indicating to Dr. Pollack that appellant "was under the influence of alcohol; it would appear entirely probable . . . that he took a few drinks in order to bolster his courage and to strengthen his resolution and capacity to kill Kennedy." (Rep. Tr. p. 7571.)

Dr. Pollack believed that the "possibility of a hypnotic trance" at the time appellant committed the assassination was "extremely remote," as was the "conjecture" that the notebooks had been written in such a trance. Appellant's behavior at the time of the assassination and at the time of the writing of the notebooks was "substantially different" from what would be expected from a hypnotized person and from appellant's behavior when he was hypnotized in the

presence of Dr. Pollack and Dr. Diamond. (Rep. Tr. p. 7572.)

Dr. Pollack hypnotized appellant on three occasions and was present on several occasions when Dr. Diamond hypnotized appellant. (Rep. Tr. pp. 7580-81.) Dr. Pollack believed that he and Dr. Diamond were successful in actually hypnotizing appellant. However, under hypnosis the subject can "lie, deceive, fantasy, tell tall tales. He can do anything that he would do in his usual state." (Rep. Tr. pp. 7582-83.) Appellant was capable of "blocking" the questions of the two psychiatrists while under hypnosis. He gave little information spontaneously; often he would not answer a question, and all of what he did offer was obtained by question and answer. While under hypnosis appellant was still thinking and reasoning, which explained his not answering questions involving matters which he did not wish to discuss and which also explained his tendency to fall asleep when asked certain questions. (Rep. Tr. pp. 7591-92.) Appellant was "able to think" at the time he prepared the "automatic writing" for Dr. Diamond in Dr. Pollack's presence. (Rep. Tr. p. 7598.) This writing was not indicative of bizarre or psychotic thinking. (Rep. Tr. pp.

7602-03.)

The fact that appellant was so easily hypnotized suggested that he was not severely or psychotically disturbed, since it is "very difficult" to hypnotize an individual who is actually psychotic. (Rep. Tr. pp. 7583, 7585.) Although appellant's Rosicrucian experiments had facilitated his being hypnotized by the psychiatrists, they did not therefore lessen the likelihood that appellant was not psychotic, because it would be very difficult for a psychotic person to hypnotize himself. (Rep. Tr. pp. 7586-88.)

The theory of appellant's having "a dissociate mind" at the time of the assassination was likewise considered only a remote possibility by Dr. Pollack. (Rep. Tr. pp. 7574-75.) Appellant "at no time" underwent a "definite break with reality." (Rep. Tr. p. 7565.) Appellant's belief "that there was some way of influencing events through this power of the mind" did not constitute "bizarre ideas that would have led [Dr. Pollack] to conclude that he was psychotic." Dr. Pollack "could find no evidence of the peculiar and bizarre thinking that [he] would consider to be evidence of psychotic thinking or

psychosis." (Rep. Tr. pp. 7567-68.)

Dr. Pollack testified, "there is very good evidence to influence my opinion that immediately after and for some time after his arrest that Sirhan was not amnesic." (Rep. Tr. p. 7562.) Appellant's remarks in the kitchen pantry that he could "explain" and that he had acted for his country indicated an absence of amnesia, as did appellant's behavior in police custody on June 5, 1968. (Rep. Tr. pp. 7579-80.) Moreover, even if appellant had had genuine amnesia it would be of the retrograde type and thus would not be "significantly related to any substantial mental disturbance at the time of the shooting." (Rep. Tr. pp. 7576, 7578.)

Falsely claimed amnesia "is a very, very common substitute for denial" of an allegation of criminal conduct, and appellant's persistent claim of amnesia was seen by Dr. Pollack as a "particular method to avoid full legal repercussion." (Rep. Tr. pp. 7573, 7575.) Appellant "was aware that if he could raise enough doubt that he had the intent to kill Kennedy when he shot him, that he would be able to avoid major legal consequences." Dr. Pollack's "clinical picture of Sirhan then is that of a more

logical reasoning person who recognizes his legal predicament and who has the mental capability of protecting himself in a rational fashion even though he has a paranoid personality problem." (Rep. Tr. p. 7575.)

Dr. Pollack explained that paranoid traits can be present "in normal people, people who have what we call neurosis." It is only when these traits are present to a greater degree that there exists a mental illness or a psychotic condition, which is a severe or more apparent kind of mental illness. (Rep. Tr. pp. 7506-07, 7509.) The term "mental illness" is merely a "description of how the individual is behaving," i.e., that his "emotional difficulties" or "mental problem" has become more apparent in his everyday behavior. (Rep. Tr. pp. 7507, 7510.)

It was Dr. Pollack's opinion that appellant was not "shy, withdrawn, or what is in psychiatric terms a 'schizoid' person who lives within himself, who withdraws to a very marked degree from the world, who has difficulties in his personal and interpersonal relationships." (Rep. Tr. pp. 7537-38.) Significantly appellant was not controlled by fantasies and did not withdraw by remaining continuously in his room

although he was preoccupied with the Arab-Israeli conflict; he had many other interests and diversions, such as personal relationships with friends, attendance at the race track, visits to the library and to the Rosicrucian group, and his reading on mind power and other subjects, and experienced appropriate emotional reactions. (Rep. Tr. pp. 7700-02.) Appellant did not love and hate Senator Kennedy at the same time; "his love actually turned to hatred" because of the Senator's pro-Israeli pronouncements. (Rep. Tr. pp. 7697-99.)

Nor was appellant psychotic in the sense of "showing any clinical signs or symptoms of psychosis." (Rep. Tr. pp. 7513-14.) Appellant did not suffer from delusions. (Rep. Tr. p. 7517.) He had the ability to reason logically notwithstanding occasional emotional outbursts. (Rep. Tr. p. 7576.) His courtroom outbursts were not feigned. They were indicative of appellant's ability to be "quite easily aroused to anger," but these outbursts did not constitute psychotic or bizarre behavior. (Rep. Tr. pp. 7976-80.)

Dr. Pollack "disagreed very strongly" with Dr. Marcus' conclusion that appellant's behavior, during the examination in which he was administered

alcohol, was "quite definitely evident of psychosis." Appellant's behavior, including his misidentification of Dr. Marcus and others present, was typical of "the usual alcoholic, intoxicated person," and could be explained by appellant's ingestion of six ounces of gin within five minutes. (Rep. Tr. pp. 7690-91.)

Dr. Pollack had initially assumed a greater likelihood of a serious mental disorder because of the nature of the offense, but in the end he ruled out the possibilities of dissociate state, psychosis, schizophrenia, severe paranoid delusions, personality disorganization, alcohol-influenced act, and brain disease. (Rep. Tr. pp. 7674, 7676-78, 7688-90, 7696.)

It was Dr. Pollack's belief "that Sirhan was not trying to feign psychosis"; on the contrary, appellant was strongly opposed to his assassination of Senator Kennedy being "related to mental illness" on appellant's part. (Rep. Tr. p. 7782.)

In diagnosis it is the mental functioning rather than the "mental disorder per se" that is most important. (Rep. Tr. p. 7794.) Dr. Pollack testified, "'The important question, as I see it from a legal point of view, is whether Sirhan killed Kennedy because of psychotic reasons or if his motives were non-

psychotic.'" (Rep. Tr. p. 7890.)

In evaluating appellant's capacity to premeditate maturely and meaningfully, to deliberate and reflect upon the gravity of the contemplated act of killing, and to harbor malice aforethought, the importance does not lie in whether the subject is mentally ill, or what label is attached to the mental illness, but rather in whether a mental illness has brought about an impaired or diminished capacity or functioning. (Rep. Tr. pp. 7615-17.)

In this context it is significant that appellant "understood the full meaning of killing Kennedy." (Rep. Tr. p. 7839.) The impression that Dr. Pollack formed of appellant's behavior on the night of June 4, 1968, was "a picture of the usual Sirhan, not a picture of a bizarre Sirhan." (Rep. Tr. p. 7693.)

Dr. Pollack arrived at the conclusion that appellant had capacity to harbor the requisite intent to select an act and carry it out, and that therefore his action in shooting Senator Kennedy was purposeful and not accidental. The assassination was not an "impulsive explosion"; there was no substantial impairment of appellant's freedom of choice. Appellant's mental capacity was not substantially decreased when

he shot the Senator. Appellant had capacity to harbor malice aforethought, to form maturely and meaningfully an intent to kill his victim, to premeditate, and to reflect upon the gravity of the contemplated act. (Rep. Tr. pp. 7619, 7621-23, 7665-67, 7671-72.)

In arriving at this conclusion Dr. Pollack took into account the following psychological functions of appellant:

> ". . . Consciousness, state of awareness, alertness, the capacity for attention, the ability to perceive, to develop percepts, to make meaningful associations out of what the individual senses, the person's ability to have foresight, the ability to look forward . . . , abilities to recall, as well; the ability to understand . . . and . . . .
>
> ". . . .
>
> ". . . the evaluation of emotions and . . . evaluation of the freedom of choice." (Rep. Tr. pp. 7643-44.)

Among the reasons for Dr. Pollack's conclusions that appellant did not suffer from diminished mental capacity or psychotic mental illness were appellant's lack of any impairment in consciousness, reasoning,

alertness, memory, or associations prior to the date of the assassination, the fact that appellant asked and answered certain questions both immediately prior to and subsequent to the assassination, the adequate planning undertaken by appellant, the testimony of witnesses to the effect that appellant's emotions did not appear very disturbed at the time of the assassination, the particular motives which impelled appellant's act, and Dr. Pollack's opinion that appellant's writings were not indicative of psychosis. (Rep. Tr. pp. 7668, 7670-71, 7681-87.)

Dr. Pollack testified that at the February 2, 1969, conference among the various psychiatrists and psychologists, "Dr. Diamond expressed a great deal of anger and resentment at my not committing myself." (Rep. Tr. p. 7768.)

PENALTY PHASE

The prosecution offered no additional evidence at the penalty phase of the proceedings. (Rep. Tr. p. 8878.)

The only additional evidence offered by the defense was further testimony by appellant's mother, Mrs. Mary Sirhan. In response to the single

question posed by the defense, "In his entire life, before this shooting, was Sirhan Sirhan ever at any time in any trouble with the law?", she testified, "He has never been. And that is not from me or from him. That is because I raised him up to the law of God and his love." There was no cross-examination of Mrs. Sirhan. (Rep. Tr. p. 8879.)

CONTENTIONS ON APPEAL[3/]

Relative to the Guilt Phase

Appellant contends that:

1. The trial court, with respect to appellant's two unsuccessful attempts to enter a plea of guilty, committed error in

(a) rejecting appellant's pretrial offer to plead guilty to first-degree murder upon condition that appellant be guaranteed a life sentence,

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3/ In the interest of clarity, the listing of appellant's contentions is organized in the manner in which the contentions are answered in Respondent's Brief, rather than in the order in which they appear in Appellant's Opening Brief. The arguments in Respondent's Brief are cross-referenced to those in Appellant's Opening Brief.