

LY Independent Journal

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SAN RAFAEL, CALIFORNIA, MONDAY, MARCH 16, 1959

\$1.

LIVE REPORTS

Funeral Wednesday For Judge Carter

Jesse Washington Carter, associate justice of the California Supreme Court, died yesterday at San Rafael General Hospital. He was 70.

The indefatigable jurist, a Sleepy Hollow resident, was hospitalized on Feb. 11 with a mild heart attack. He seemed to be making a satisfactory recovery until he developed virus pneumonia last Thursday.

His condition became critical on Saturday when a clot

formed in an artery to the right lung, depriving a portion of the lung of blood and creating a secondary stress on his heart.

Death came at 7:15 a.m. as the justice slept.

FREQUENT DISSENTER

Justice Carter, a resident of Marin County for 18 years, was appointed to the state Supreme Court on Sept. 12, 1939 by Gov. Culbert O. Olson. In the ensuing years he earned a reputation as a champion of individual rights and a frequent dissenter.

"I welcome dissents," he said. "They test the soundness of my own opinions. If I am right, the dissent makes the soundness of my position even clearer. If I am wrong, the dissent should point the way for the correction of the error by this or some future court."

"A Supreme Court decision which cannot stand the test of a vigorous dissent should never stand as a decision of the court."

PERSONAL RIGHTS

Outside of court he vigorously championed his own personal rights in a sharp controversy with Marin County officials last year, threatening to shoot any official who dared approach a private fish reservoir on his property in Sleepy Hollow.

The reservoir overflowed during heavy rains, flooding property below. After angry exchanges and court skirmishes the controversy died down without any shooting. The reservoir's water level was lowered.

Although best known as a dissenting judge, Carter's majority opinion in the so-called Cahan case in 1957 delivered his legal thinking with solid impact on California courts.

The State Supreme Court's 4-3 decision overturning the Los Angeles bookmaking conviction of Charles H. Cahan went beyond simply reversing the conviction. Henceforth, declared the majority opinion written by Carter, prosecution evidence obtained illegally would not be admitted in any criminal trial in California courts.



JESSE W. CARTER
Death comes at 70

UNCONSTITUTIONAL

Justice Carter said most of the evidence against Cahan was gathered "in flagrant violation" of the federal and state constitutions. Police had broken into Cahan's home to install a listening device. Carter declared this intrusion was only one of "case after case" of unlawful searches and seizures that had come before the appellate courts.

Justice Carter was the only
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court member to attack the loyalty oath for state employees as unconstitutional and a violation of the Fifth Amendment.

BLOOD TEST

He also disagreed in 1957 when the state Supreme Court ruled as legal the taking of a blood sample from an unconscious drunken driving suspect. Carter called it unlawful search and seizure.

In July 1954, Justice Carter stayed the execution of convict-author Caryl Chessman after the court as a whole had refused to consider a last-minute petition. Chessman still is alive in his death cell at San Quentin Prison more than 10 years after his conviction of terrorism and depravity as a prowler of Los Angeles lovers' lanes.

BORN IN 1888

Carter, the son of Asa Manning Carter and Josephine Amanda Sweet Carter, was born in Trinity County in 1888. His family had settled there some years earlier after a cross-country trek in a covered wagon.

He attended public schools in Trinity County, then took his law degree at Golden Gate College, San Francisco in 1913. He started practice in 1914 at Redding.

He was district attorney of Shasta County from 1918 to 1927 and Mount Shasta city attorney until 1939 when he was elected to the State Senate on the Democratic ticket. He was appointed to the Supreme Court bench that same year. He was re-elected to another 12-year term last November.

MARRIAGES

He was married in 1910 to Tiny Elva Gish. They had three children. That marriage and a second, to Thelma H. Williams in 1941, ended in divorce.

In 1952 Justice Carter married attorney Jean Woodward, who was one of his legal secretaries. Their home is on Oak Knoll drive in Sleepy Hollow.

Judge Carter was a member of the San Francisco, Los Angeles and American Bar Assns., the Redding Rotary Club, the Shasta and Marin County Sheriff's Posse, Western State Lodge 2, Free and Accepted Masons, and the California State Horsemen's Assn. of which he was a former president.

Surviving are his wife, two sons, and a daughter, Oliver Jesse Carter, a judge of the U.S. District Court in San Francisco, and Prof. Harlan Field Carter and Mrs. Silvio Eugene Bui, of Redding; two sisters and two brothers, Mrs. Emma Lane of San Anselmo; Mrs. Lizzie Reese of Perris, Riverside County; Henry Carter of Redding and John E. Carter of Cottonwood, Shasta County; seven grandchildren and one great-grandchild.

Superior Court Judge Samuel Finlay of Del Norte County, Charles Goff of Merced, and Leonard Martin of Ross.

PALLBEARERS LISTED

Honorary pallbearers will be: Gov. Edmund G. Brown, Atty. Gen. Stanley Mosk, former Governor Olson, Supreme Court Chief Justice Phil S. Gibson, Associate Justices John W. Schenk, B. Rey Schauer, Roger J. Traynor, Homer E. Spence and Marshall F. McComb, and clerk William I. Sullivan; Chief Justice Louis E. Goodman of U.S. District Court.

Judges Raymond E. Peters and Frank A. Bray of the District Court of Appeals; Dr. Leo L. Stanley; Robert W. Kenny, former state attorney general; George Goheen, former Mill Valley mayor; Carlos R. Freitas, former Marin County Superior Court judge; Judge Thomas F. Keating of Marin County Superior Court; attorneys Wallace S. Myers, Jesse E. Nichols, C. Ray Robinson, Arthur Dettner and E. S. Houdlette.

M. Mitchell Bourquin, Lawrence Livingston, Judge Guy R. Crump of Los Angeles, Superior Court Judge Donald Geary of Santa Rosa; Superior Court Judge Alfred F. Ross of Redding, and Superior Court Judge Emil Gumpert of Los Angeles.

Friends may call at Harry M. Williams Mortuary, San Rafael, from 6 p.m. today until Wednesday noon.

Friends wishing to make memorial gifts may direct their contributions to the Salvation Army or the Heart Fund.