

Sirhan Trial Judge Retires From Bench

BY RON EINSTOSS
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The judge who presided over one of the most significant trials in the nation's history officially retired over the weekend from the Superior Court bench.

Herbert V. Walker, who turned 70 today, is confined to his Glendale home recuperating from a heart attack suffered July 3—barely six weeks after he formally sentenced Sirhan B. Sirhan to death for the assassination of Sen. Robert F. Kennedy.

Although he has hung up his robe, Judge Walker will not debate what was the most controversial decision of his lengthy and distinguished career, which included nearly 16 years on the bench.

Early in the Sirhan trial, he vetoed an agreement which would have permitted Sirhan to plead guilty to first-degree murder in return for life imprisonment.

The crusty, white-haired and bushy-browed jurist maintains that he was correct in ruling that the public was entitled to hear from the witness stand all the facts in the historic case.

Wanted Jury Decision

"I didn't want the decision on his guilt or innocence or his penalty determined by a bunch of psychiatrists, but by a jury," he said last week in his sycamore tree-covered patio.

He was referring, he said, to the fact that Dist. Atty. Evelle J. Younger agreed to accept a defense offer to plead guilty in exchange for a life prison

term because psychiatrists who examined Sirhan said he might not have fully understood the nature and consequences of his heinous act that night 14 months ago.

Walker's entire career as a public servant, which began in 1928 when he became a deputy commissioner of corporations for the state, has been marked by one trait—stubbornness.

In 1943, when Walker was appointed chief deputy district attorney (succeeding, coincidentally, Sirhan's chief counsel, Grant B. Cooper), then-Dist. Atty. Fred N. Howser described it in another way:

"No one is going to push him (Walker) around . . ."

And no one, Walker says proudly, ever has.

Once known as a tough judge—perhaps because he has sentenced 20 men to die—Walker mellowed in recent years as he seemed to enjoy his status as the dean of the criminal court bench in Los Angeles County.

The firmness that led countless attorneys to challenge him for prejudice—indirectly conceding they did not have a very good case—appeared to begin softening five years ago, just about the time the Criminal Courts Bar Assn. (composed of those same attorneys) paid special tribute to him at its annual dinner.

"His standards of fairness and justice have been in the highest tradition of judicial responsibility," was the inscription on the plaque presented to him.

Explained Walker last week:

Some Opposition

"No one ever accused me of being easy, but yes, I suppose you can say I mellowed as I gained experience and began tempering my judgment with mercy.

"But it didn't bother me when they said I was a tough judge because I always felt I was right.

"I could always sit alone

with myself in peace.

There were some judges here who opposed Walker's selection to try the important Sirhan case.

A younger man was needed, they thought, noting that the trial would be a demanding and lengthy one.

But last Sept. 19, after he returned from a trip to Europe with his wife, Alice, Walker got the assignment that was to be

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Judge Herbert V. Walker

WALKER

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the capstone of his career.

No one, his backers said, better filled one of the main criteria established by then-Presiding Judge Donald R. Wright and Judge Richard Schauer, who headed the criminal departments of Superior Court: The judge picked to try Sirhan would have to have wide criminal court experience.

Because Sirhan's conviction is being appealed, Walker discusses it cautiously, repeating what he said when the jury reached its verdict.

"I thought then, and I've heard nothing since to change my mind, that the jury's decision was a correct one."

He also says all the facts

were brought out during the trial and that all the "pertinent" questions were answered.

"I am convinced—and there is absolutely no credible evidence to the contrary—that there was no conspiracy to kill Sen. Kennedy," he declared.

In rejecting the offered plea agreement, he said he never considered the fact that such an arrangement would save the court's time and the taxpayers' money.

"Justice is not measured by either time or money and I've never let those factors—in any case—determine my decision," he said.

Law, Not Emotions

His philosophy on the bench these many years, he said, has always been to follow the law.

Even now he won't say whether he personally favors capital punishment, noting that the only thing important to him is that it is the law in California.

A lay leader in the Episcopal Church, which opposes the death penalty as a matter of principle, Walker does, however, maintain that capital punishment is not cruel and unusual or barbaric.

And he believes it serves as a deterrent, even though he presided over a precedent-setting hearing that may lead to its abolition.

In November, 1967, he rejected an ACLU contention that the death penalty is unconstitutional in the case of Robert E. Thorn-

ton, a convicted slayer, robber and sex pervert.

Could Be Decisive

That case now is on appeal and theoretically could be the one that sounds the death knell for capital punishment.

At the conclusion of the 12-day hearing, Gerald Gottlieb, one of the ACLU lawyers, said of Walker, despite his adverse ruling:

"His labors will constitute a lasting contribution to American law."

Walker agrees with assertions that the most neglected part of criminal law is too little emphasis on rehabilitation of convicted felons.

The problem of rehabilitating the criminal who has been in jail for so long he becomes institutionalized also must be solved, according to Walker.

He thinks California is the most advanced of all states in this respect with its presentencing reports, diagnostic examinations and indeterminate sentencing.

The parole system, he said, is a good one, although errors are made "because it is operated by men who are subject to making mistakes."

The Walkers have three children, one of whom, Herbert W. Walker, practices law in Santa Ana.

It will be about three months before Judge Walker will be able to resume a normal life.

"Right now I'm in the dumps because I feel so helpless," he said. *W*