

Justice Frank K. Richardson

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Frank K. Richardson served as an associate justice of the California Supreme Court for nine years during a tumultuous period in the high court's history. Richardson's judicial tenure during 1974-1983 witnessed, among other things, the controversial appointment of Rose Bird as the court's chief justice (and as the first woman appointed to the Supreme Court of California), the extraordinary public investigation by the Commission on Judicial Performance into allegations of high court improprieties,¹ and decisions on such highly charged issues as the death penalty, public funding of abortions, property tax reform (Proposition 13), and a "victims' bill of rights" (Proposition 8). Throughout this period, Richardson remained a strong supporter for the principle of judicial restraint, an often lonely position for a justice of what once was one of the nation's most liberal and activist appellate courts.

Born in St. Helena, California, in 1914, Richardson earned both undergraduate and law degrees from Stanford University, graduating from law school in 1938. These were lean times for lawyers, and, after trying unsuccessfully to obtain a legal position in various cities in the state, in 1939 Richardson finally established a private law practice (" . . . desk space in a second floor office over a clothing store on a side street . . . ") in Oroville, California.² Except for a three-year break for military service between 1942-45, Richardson remained in private law practice until 1971, when he was appointed as Presiding Justice of the California Court of Appeal for the Third District. Richardson was subsequently elevated to become an associate justice of the California Supreme Court by Governor Ronald Reagan in 1974.

As a justice, Richardson is perhaps best remembered for his role as a staunch judicial conservative on a decidedly liberal court. Yet in both dissents and majority opinions, Richardson's was an eloquent and persistent voice for the principle of judicial restraint. Two important decisions authored by Richardson illustrate this well. The first, *Amador*

Valley Joint Union High School District v. State Board of Equalization, (1978) 22 Cal.3d 208, upheld the constitutionality of California's landmark voter-enacted tax revolt amendment, Proposition 13, which dramatically altered the structure of both state and local taxation and also inspired popular emulation nationwide. Articulating a theme that was to be repeated in other cases, Richardson stressed in *Amador Valley* that it is not the court's job to question the "economic or social wisdom or general propriety" of an initiative but rather it is the judge's duty to "jealously guard" the initiative process as "one of the most precious rights of our democratic process."³

Similarly, in *Brosnahan v. Brown*, (1982) 32 Cal.3d 236, Richardson led the court in upholding California's Proposition 8, the "crime victim's bill of rights" initiative. As he had in *Amador Valley*, Richardson emphasized the need to allow the "sovereign" people to manifest their will through the initiative process, absent any "compelling, overriding constitutional imperative," regardless of the court's assessment of Proposition 8's wisdom.

It is, however, in the role of a judicial dissenter that Richardson was often most prominently cast during his tenure on the high court. His was the sole dissent, for instance, in a case disallowing a Republican reapportionment initiative on the ballot that would have potentially replaced a controversial reapportionment scheme drafted by Democrats.⁴ Richardson also dissented from the majority opinion in cases supporting state funding of abortions for poor women and extending the scope of manufacturers' liability in tort law. Moreover, despite his stated personal reservations about the propriety of the state's power to take a life, Richardson vigorously and persistently dissented in various decisions reversing a death sentence. He argued that the majority's propensity to require what (in his view) was bound to be an elusive and infrequent "absolute perfection" in death penalty cases both undermined the court's legitimate role and the express will of the people.⁵

Justice Richardson, while frequently at odds with the court's majority of his time, earned a reputation as a likeable and thoughtful justice and one whose views would have a strong impact in the court's subsequent history.

NOTES

¹For a comprehensive account of this investigation, see Preble Stolz, *Judging Judges: The Investigation of Rose Bird and the California Supreme Court* (New York, 1981).

²See Jonathan Maslow, "Honorable Frank K. Richardson," *California Lawyer*, 4:38, 40 (1984).

³22 Cal.3d 208 at 241, 259 (quoting *Associated Home Builders, Inc. v. City of Livermore* and earlier cases).

⁴See *Legislature v. Deukmejian*, 34 Cal.3d 658, 681 (1983).

⁵See, e.g., *Carlos v. Superior Court*, 35 Cal.3d 131, 155 (1983).