

## 'No Weasel Words'

# Justice Carter Parries Attack His Dissents

By ALVA SENZER

A mild furor in local legal circles over the fiery dissents of one of California's State Supreme Court Justices seems to have died. The gentleman under discussion doesn't care what his colleagues think of his legal language.

Jesse W. Carter has sat on the State's highest bench since 1939 and during that time he has strongly disagreed with his colleagues often enough to earn the nickname, "The Great Dissenter."

In a recent issue of the American Bar Association Journal, the law's "grand old man," Roscoe Pound, former Dean of Harvard Law School, saw fit to take him to task for his emphatic language.

Carter's answer last week was: "I don't believe in beating around the bush. The Judge who quavers or retreats before an impending crisis of the day and finds haven in dialectics or weasel words is . . . not born for the woolsack."

### DISSENTS QUOTED

In his objection to the application of this philosophy, Pound spent almost one-fourth of his magazine article quoting directly from Carter's recent dissents.

In Pasadena vs. Alhambra, a dispute over water rights, Pound singled out this reaction of Carter to the majority opinion: ". . . I would say that the doctrine laid down in the majority opinion is based upon the philosophy of bureaucratic communism."

His analysis of the majority ruling in Samuels vs. Hite, a

dispute over the legal definition of "eligibility," was that the "construction placed upon the statute in question by the majority is strained, unrealistic and utterly lacking in reason, logic or common sense."

In a 22-page dissent on Sanguinetti vs. Moore Dry Dock Co., Justice Carter reached what Pound characterized as "the height of judicial imitation of forensic advocacy" with: ". . . There is not a scintilla of . . . There is not a scintilla of reason or common sense in such holding. It is so lacking in consideration of the realities of the situation that it may be considered to be naive."

### 'THREAT TO CONFIDENCE'

Carter's language, Pound concluded, can do nothing but imply that personal feelings and emotions enter into the impartial considerations of the highest courts, thus causing a drop in public confidence.

Carter, on the other hand, was "mystified as to why a man of Pound's background would author an article of the character which takes isolated phrases and sentences out of context without giving any consideration to the merits of the case or the dissenting opinion."

"I should think the people would want a fighting judge. At least a firm dissent assures the attorney for the losing side that the case has received a thorough airing and gives him encouragement to appeal his case.

"I want what I say to be understood by my readers. If the language expresses the idea, that's all that counts. I welcome strong dissents. They test the soundness of my own opinions."

Carter said he hasn't decided yet whether he will run for reelection when his term expires in 1959. "That's too far away to worry about," he said, smiling.



Jesse Carter