

Supreme Court senior justice Peterson quits

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By Margaret Zack
Staff Writer

Justice C. Donald Peterson, the most senior member of the Minnesota Supreme Court, will retire Jan. 6 because of ill health.

Peterson, 67, said Friday he will wind up his judicial work about Sept. 23 and then will be using accumulated vacation until the first of the year.

The justice said his resistance to infections and disease has been diminished because of lymph cancer in 1969 and hospitalization in October for hemolytic anemia, a condition in which factors in the bloodstream cause blood cells to break down. He was hospitalized again in July with pneumonia.

Peterson said the two hospitalizations represented a marked change in his condition. "My general physical condition and medications are such that I can no longer function efficiently," he said.

Peterson told Gov. Rudy Perpich of his decision yesterday. He will not be replaced on the court. When the Minnesota Court of Appeals was formed, it was mandated that the Supreme Court would be reduced from nine justices to seven.

John Todd resigned from the court earlier this year and Peterson's departure will leave seven justices.

Peterson, highly regarded by his peers, was elected to the court in 1966. Justices Lawrence R. Yetka and George M. Scott are the next most senior members of the Supreme Court. They were appointed on June 2, 1973, by Gov. Wendell Anderson.

Justice Rosalie Wahl said yesterday that she regrets Peterson's departure very much.

"He has a very judicious way about him and a scholarly way of looking at issues," Wahl said. And, "no matter how tired we'd get or how hard we'd work, he'd crack a joke and get us to laugh."

Peter Popovich, chief judge of the Minnesota Court of Appeals, served in the Legislature with Peterson and also appeared before him in court.

"He was a very articulate, well-prepared state representative," he said. "When I appeared before him as a lawyer, he could analyze problems quickly."

Peterson said he has no retirement

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plans, but will not go into private law practice. He said he hopes to do some free legal work.

According to the state retirement board, Peterson will receive \$46,164 a year, or 67.5 percent of his final \$68,400 salary.

He spoke fondly of the justices on the court and recalled some of the cases he particularly enjoyed.

"I have great affection and deep respect for my colleagues," he said. "They are a very able group of people with a breadth of knowledge. It's a collegial court. In my 19 years, I have never heard in conference a harsh or nasty word. We've had lively debates, but disagreements are left behind and we can go out to lunch together."

Constitutional law — especially cases dealing with the First Amendment — has always interested him.

The third case he heard on the court in 1967 and for which he wrote the decision is one he recalled. The court threw out a \$20,000 jury award to Arnold Rose, a University of Minnesota sociology professor, who had been called a communist or communist sympathizer in a publication called "Facts for Action" put out by Christian Research.

"I always thought it was a plain free speech case," he said.

A second case Peterson cited was this summer's ruling that a constitutional right to exercise religious beliefs freely does not permit the owner of a chain of Twin Cities health clubs to question prospective em-

ployees about their beliefs or promote only employees who share his religious views.

Peterson disagreed in a strongly worded 42-page dissent. He said he did not think the Minnesota Human Rights Act was intended for such situations and found the majority view to show "a spirit of indifference, if not hostility, to deeply held religious beliefs contrary to what I believe is the spirit of the people of Minnesota."

He said, "I've not been a frequent dissenter, but when I do, I tend to uncork a bit."

Peterson graduated from the University of Illinois law school in 1941. He served in World War II and in the Air Force in the Korean War.

He served as state representative from 1959 to 1963. He was voted outstanding first-term representative and was assistant floor leader for the conservative caucus in his second term.

In 1962, he lost a close contest for lieutenant governor, running on the Republican ticket. He practiced law from 1946 to 1966. He has been an elder of Christ Presbyterian Church of Edina, president of the Minnesota Press Council and was co-chairman of a national task force to establish a National News Council in 1972.

Peterson and his wife, Gretchen, have six children, Barbara, who was Miss USA in 1976, Polly, Craig, Mark, Todd and Scott.