

Lott R. Herrick 1933-37

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Lott Russell Herrick was born December 8, 1871, in Farmer City in central Illinois to George W. and Dora O. Herrick. As a child, he attended the public schools in his home town, ending his local education in 1888 when he graduated from Moore Township High School at age sixteen. The following semester, he enrolled at the University of Illinois, graduating there in 1892 with a bachelor of arts degree and memberships in the Sigma Chi fraternity and the Phi Beta Kappa honor society.¹



His father had a law degree from the University of Michigan, and Lott followed his father's footsteps north and received his own Bachelor of Law degree from that institution in 1894. Returning home, he was admitted to the Illinois bar and joined his father in the law firm of Herrick & Herrick. His career choice surprised no one. Since the age of eleven, he had been helping his father around the office during school vacations and Saturdays and continuing on to full partnership seemed natural. Having settled into his professional life, he married Harriet N. Swigart of Farmer City on April 2, 1896. Together they had two daughters, Helen and Mildred.²

He became a county judge in DeWitt County in 1902. He resigned the position in 1904 after his father died to enable him to devote his full attention to the family law firm, which now included his brother.³ This move marked the beginning of a period of almost thirty years in

which his partnership achieved eminence throughout the region, giving him wider experience in the practice of law than almost anyone who rose to the Supreme Court bench. His general practice, which included such clients as the Illinois Central Railroad, was successful enough that his brother and he opened another office in Clinton, the seat of DeWitt County, which lay about twenty miles from Farmer City. His civic leadership was enhanced by his community participation in the Freemasons, the Knights of Pythias, and the local Elks club.⁴

In 1908, he was involved in a sensational trial in Clinton that grabbed front pages around the state for more than five months. Thomas Snell, a wealthy landowner and successful businessman, died and in his will left a substantial amount of money in the form of an annuity to his youthful and attractive grandniece Maybelle McNamara. Snell's son Richard attempted to break the will claiming that Ms. McNamara had been a "baleful and evil influence" and that his aging father had been easily misled by various "temptresses." Lott Herrick served as the attorney for the estate to see that the terms of the will for the \$2 million estate were carried out according to the wishes of the deceased, which meant that he argued in favor of allowing the annuity to go to the younger woman, whom some typified as a "vampire." In the end, the court was persuaded to break the will, and Herrick lost the case.⁵

With a civil and criminal law practice that spanned decades and gave him a wide reputation for competence, he decided to run for the Supreme Court in the 1932 election as a Democrat. Although he had served only two years as a judge, he could claim with justification that as a trial lawyer he had "more cases in the Supreme and Appellate Courts than any other lawyer in his generation."⁶ He won the election after a bitter contest against Judge James Baldwin, who was a powerful Republican in neighboring Macon County. Herrick's victory could also be ascribed in part to the Franklin Roosevelt landslide of that year.⁷ Once on the

bench, he earned a reputation for assertiveness and ceaseless work. The dramatic shift in politics occurring then reached into all aspects of government. Within a year of his ascent to the Supreme Court bench, Herrick was accused of playing politics with fellow Democrat Governor Henry Horner. A Republican state senator from Champaign County claimed that Herrick was using influence with Horner to affect appointments while Herrick himself had hired his own son-in-law as his law clerk. No one, however, suggested that “politics” played any role whatsoever in the cases before Justice Herrick.⁸

Having served only four years on the court and having no great seniority, he did not write many opinions. In one case, he wrote the majority opinion involving the prosperous business of Albert Goodman. Goodman and his employees handled more than 8,200 workmen’s claims for clients in front of the state’s Industrial Commission. The Chicago Bar Association provided evidence to the state that Goodman represented clients without a law license. A Cook County court found him guilty of contempt and fined him \$500. Herrick wrote the opinion affirming the contempt charge and the fine. In the course of telling Goodman that he was practicing law without a license, Herrick wrote that the power to define and regulate the practice of law is a prerogative of the Supreme Court. He also wrote that the right to practice law is in the nature of franchise but that such franchise cannot be assigned to a corporation or passed on to others. Much of this had been articulated and established by Justice James Cartwright in 1899 in *In Re Day*, but Herrick went further in asserting that only the court may determine what constitutes the practice of law and that only the court can decide what a law is in the first place even though the legislature is responsible for writing statutes.⁹

In June 1936, Herrick became the chief justice of the Supreme Court and served for one year, but he would not be able to complete his first term on the Supreme Court. On August 27,

1937, he fell ill and returned from Springfield to his home in Farmer City for treatment by his family doctor. The doctor suspected blood clots on the brain and sent him to the Mayo Clinic in Rochester, Minnesota, for further diagnosis. He traveled there by private rail car with his wife and daughter in early September, but died there on September 18, 1937 from lesions on the brain. He was buried in Maple Grove Cemetery in Farmer City, close to where he was born.¹⁰

¹ 367 Ill. 11 (1938).

² Ibid; *Michigan Alumnus*, v. 44 (October 16, 1937), 39.

³ “Justice Herrick,” *Chicago Bar Record*, v. 19 (1937-1938), 4.

⁴ *Chicago Daily Tribune*, 28 September 1937, 2.

⁵ The *Chicago Daily Tribune* carried the story periodically from beginning to end. See the *Tribune*’s beginning and ending articles on January 1, 1908, 1, and May 29, 1908, 1.

⁶ 367 Ill. 11.

⁷ *Chicago Daily Tribune*, 19 September 1937, 18.

⁸ *Chicago Daily Tribune*, 26 April 1934, 7.

⁹ *In re Day*, 181 Ill. 73 (1899); *People v. Goodman*, 366 Ill. 346 (1937); “Notes on Latest Supreme Court Picture,” *Chicago Bar Record*, v. 18 (1936-1937), 231.

¹⁰ *Chicago Daily Tribune*, 19 September 1937, 18; 367 Ill. 11.