

Warren H. Orr 1930-1939

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Warren Henry Orr was born in Hannibal, Missouri, on November 5, 1886, to James H. and Louisa E. Watson Orr. He attended the local schools there. His high school commencement



address was given by Samuel L. Clemens, who was also from Hannibal.¹ He received his higher education at the University of Missouri, and since his family was of modest means, he earned money for college by taking summer jobs on packet boats on the Mississippi River and reporting news of the state university to the *Kansas City Star*, the *St. Louis Post-Dispatch* and the *Omaha Bee*. His plan was to become a journalist. He was so keen on the idea of creating a university-based journalism education program that he was

instrumental in creating the nationally-acclaimed school of journalism at the University of Missouri. Because of his part-time experience, Orr was one of the original instructors in the department, even though he was still a student.² He received his Bachelor of Arts degree in 1909, but at the request of his mother he stayed in school to receive a Bachelor of Laws degree in 1911.

He moved to Quincy, Illinois, where he was admitted to the bar in 1911. Shortly thereafter, he noted the construction of a new hydroelectric dam up the Mississippi River at Keokuk, Iowa. Anticipating a boom in the area, he moved to Hamilton across from Keokuk on the Illinois side of the river and opened a one-room office with little more than a typewriter and a

desk.³ From 1913 to 1918, he served as the city attorney for Hamilton but relinquished that title when he was elected Hancock County judge in 1918. He was reelected in 1922 and 1926. During his tenure on the local bench, he served as president of the Illinois County and Probate Judges Association in 1923. He earned a reputation for fairness; he never recommended one attorney over another. When he was called upon to place someone in a court-appointed position, he chose the individual from an alphabetical list of the all the attorneys in the county. No decisions of his were ever reversed by a higher court.⁴

During this period, judges were often assigned temporary circuit duties in Chicago to help alleviate the perennial burden of overloaded dockets. When Orr was sitting as a temporary municipal court judge in Chicago, he had the distinction of sentencing Frankie Lake, the notorious gangster from the Terry Duggan bootleg gang, to ninety days in jail for carrying a concealed weapon.⁵

Orr's path to the Supreme Court was arduous. The justice who occupied the Fourth Judicial District seat on the court was Floyd Thompson, who resigned his seat to run as the Democratic candidate for governor in the 1928 general election. Orr had no difficulty getting the Democratic nomination, but as he was running in a district that usually voted Republican, he lost to Cyrus Dietz by 18,000 votes out of 151,000 cast in the election although he received more votes in his district than presidential candidate Al Smith, the head of the Democratic ticket. Dietz, however, died in an equestrian traffic accident after serving less than a year on the court. Because there was less than one year remaining in the regular nine-year term for the Fourth District, Governor Louis Emmerson was able to appoint Paul Samuell, an experienced jurist and Republican operative, to fill the seat until the judicial election that was to be held in June 1930. Samuell was favored to win, but since the onset of the Depression that followed the 1928

election voters had grown away from the Republican Party and gave the Democrat Orr a 4,000 vote majority.⁶

His entire career on the Supreme Court was played out against the backdrop of the Depression. In a special session in February 1932, the legislature passed an income tax law in order to raise money needed to help relief efforts. Legislators from Cook County worked to defeat the bill, but heavy support from rural areas downstate prevailed. Orr wrote the court's opinion denying the state's right to create an income tax. In *Bachrach v. Nelson*, the court said that the legislature exceeded its powers in adopting the measure and declared the law unconstitutional. Orr wrote that the Income Tax Act of 1932 was invalid as a tax on property, not being based on valuation as required by the constitution. Subsequent scholarship suggested that the reasoning was flawed and based on an inaccurate assessment of the state's history of taxation. In any case, there would be no state income tax for several more decades.⁷

He also wrote the opinion for the court's unanimous decision in *People v. Peoples Stock Yards State Bank*. In this case, the court determined that the employees and agents of the bank corporation named in the suit were in effect practicing law because of the status of the corporation. The court found that only lawyers, that is, licensed individuals admitted to the bar, can practice law. A corporate entity could not be a lawyer. If an employee of a corporation had to conduct law business such as appearing in court or filing suits, that employee must be a licensed lawyer. Orr's opinion was cited and quoted in law journals and briefs prepared for other jurisdictions.⁸

Orr was to serve only one term on the Supreme Court from 1930 to 1939 and served as chief justice from 1933 to 1934. These were tumultuous years that saw the Depression, the New Deal, and political upheavals that were to affect the nation for decades to come. Changes bring

pressure on legal institutions either to legitimate or to reject those changes. Whereas Orr wrote opinions dealing with conventional cases such as the *Tribune Co. v. William Hale Thompson et al.*, which held in favor of the mayor against the newspaper's charges of malfeasance, he also had to write opinions that reflected the new temper of the time.⁹ Thus, he wrote opinions upholding the right of Chicago's transit ordinances to create a unified transit system and make the construction of the subway system possible in *People v. City of Chicago*.¹⁰ Similarly, he supported the consolidation of Chicago's parks from twenty-two separate systems into one.¹¹ At the same time, the Court directed much of its attention to writing a complete set of rules in accordance with the Civil Practice Act of 1933.

At the end of his term, he announced that he would not seek reelection to the court even though he was guaranteed a unanimous nomination and probably an easy campaign. Having been a judge since he was thirty-two years old, he was concerned about the economic consequences for himself and his family. Even though he had some supporters who submitted his name to the President of the United States for appointment to the United States Supreme Court in the late-1930s, and others who would have liked him to run for governor in the mid-1940s, he chose to move to the Chicago area and engage in the practice of law.¹² He was briefly in former Supreme Court Fourth District Justice George A. Cooke's firm of Cooke, Sullivan & Ricks. He subsequently formed the firm of Orr, Vail, Lewis & Orr—the last being his son—where he stayed until his retirement in 1958 due to failing eyesight.¹³ In other business affairs, he was one of the organizers and the first president of the Belmont Bank on Chicago's north side. While he was in private practice he kept up his active interest in the Democratic Party.¹⁴

In connection with his job as bank president, he was a member of the Lakeview Civic Association, and he was also a Thirty-second Degree Mason, a member of the Elks and Kiwanis

Clubs. He also belonged to the Union League Club and the Illinois Athletic Club in Chicago. Other civic activities were the result of his love of the outdoors. He was an avid hunter of ducks and geese; during his earliest days in Hamilton, he was co-founder and long-time officer of a sportsman's club. His influence helped to have State Highway 96 placed directly alongside the Mississippi River between Hamilton and Nauvoo, which resulted in the road's later designation as a scenic byway. He was also instrumental in organizing the local park district in the Hancock County seat of Carthage.¹⁵

In the years following his judgeships he lived in the North Shore suburb of Wilmette. It was there that he took sick and after a week-long illness died at Evanston Hospital January 13, 1962. He left behind his wife Dorothy (Wallace) Orr, whom he had met and married after moving to Hamilton as a young man. He had three sons: Wallace Watson Orr with whom he practiced law and was later named president of the United Electric Dynamics Company; Warren Denton Orr and William Eugene Orr, who both pursued careers at the Lockheed Corporation in California.¹⁶

¹ 31 Ill. 2d. 11.

² Ibid.

³ Ibid.

⁴ *Chicago Bar Record*, 43 (1961-1962), 513.

⁵ *Chicago Daily Tribune*, 13 September 1928, 6.

⁶ *Chicago Daily Tribune*, 4 June 1930, 7.

⁷ *Bachrach et al. v. Nelson et al.*, 349 Ill. 579 (1932); *Chicago Daily Tribune*, 23 October 1932, 3; Jo Desk Lucas, "No property Taxes under the Illinois Constitution," *University of Chicago Law Review* 25 (Autumn 1957), 63-108.

⁸ *People ex rel. Illinois State Bar Association v. Peoples Stock Yards State Bank*, 344 Ill. 462 (1931); *State Bar Journal* 9 (March 1934), 53-54.

⁹ *Tribune Company v. Thompson et al.*, 342 Ill. 503 (1930).

¹⁰ *People v. City of Chicago et al; Bass et al v. City of Chicago et al.*, 349 Ill 304 (1932).

¹¹ *Chicago Daily Tribune*, 24 October 1931, 2; *Chicago Daily Tribune*, 27 July 1932, 2; *Chicago Daily Tribune*, 24 August 1934, 3.

¹² *Chicago Daily Tribune*, 11 May 1939, 11.

¹³ 31 Ill. 2d. 11.

¹⁴ *Ibid*; *Chicago Daily Tribune*, 5 May 1937, 4; *Chicago Daily Tribune*, 11 January 1938, 3; *Chicago Daily Tribune*, 24 December 1943, 5; *Chicago Daily Tribune*, 18 January 1944, 2; *Chicago Daily Tribune*, 4 December 1947, 29.

¹⁵ *Chicago Bar Record* 43 (1961-1962), 513; 31 Ill. 2d. 11.

¹⁶ *Ibid*.