

Robert C. Underwood
1962-1984

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Robert Charles Underwood was born in Gardner in Grundy County, Illinois, on October 27, 1915, the only child of Marion L. and Edith L. Frazee Underwood. His father worked in his grandfather's general merchandise and grocery store that served the surrounding farming community. His mother was a schoolteacher. The store provided a life without want, but when he was old enough to count he was put to work counting eggs, and when he was old enough to drive a delivery wagon he was put to work delivering groceries and soliciting orders from customers in the countryside.¹ His father also owned a farm about fifteen miles east of Gardner where Rock Creek flowed into the Kankakee River. The property is now part of Kankakee River State Park. The farm played an important role in his life since his father and he spent time there hunting and fishing, in which he developed a lifelong interest.



He graduated from Gardner-South Wilmington High School in 1933, and then, partly because his family was active in their Methodist Church, he enrolled at Illinois Wesleyan University at Bloomington, about sixty miles to the southwest. While in college he worked in a food market and as a dishwasher in a restaurant to pay his two-dollars-a-week rent. He also took on odd jobs, including handyman work for an eccentric widow whom years later he committed to a mental hospital while serving on the circuit bench in Bloomington.² Following his graduation

from Illinois Wesleyan in 1937, he enrolled in the law school of the University of Illinois from which he received his law degree in 1939. He was admitted to the state bar the same year. Also in that year he married Dorothy Roy of Chicago. He had planned to relocate and practice law in Minnesota because that state appeared better able to satisfy his love of the outdoors. He took the bar examination for Minnesota but did not receiving the results in a timely manner. In the meantime, he took the Illinois bar examination and passed. He decided, with his wife, to remain in Bloomington, where he entered private practice. Minnesota then notified him that he passed the bar examination, but he had already begun his career in Illinois that was to span fifty years.³

From 1939 to 1946, he was in private practice in Bloomington and served as city attorney for adjacent Normal. During this period he was also assistant state's attorney for McLean County from 1942 to 1946. In 1946, he was elected judge. He was surprised at his nomination and election to the county bench because he felt he was too new to McLean County and to the legal profession. Voters, however, felt otherwise and demonstrated their support in reelecting him three times. His elevation to the Supreme Court was even more surprising to him.

Underwood attended the Republican convention in Champaign for the 1962 special judicial election to fill the Supreme Court seat vacated by the death of Justice George W. Bristow. He attended the convention as a delegate with no inkling that he would become the nominee. Several people were keenly interested in the nomination and the outcome was uncertain. In order to keep their options open the McLean County delegation, which included Underwood, decided to run him as a favorite-son candidate. After sixteen hours and fifty-one contentious ballots the convention deadlocked. Underwood's delegates decided to make their move, and after some quick electioneering Underwood became the party's nominee on the fifty-second ballot. He modestly attributed his success to the notion that he "had not made any

particular enemies.” He was elected easily in the heavily Republican Third District in the April election, and Chief Justice Harry B. Hershey swore him in on May 2, 1962.⁴

In the post-World War II decades constitutional law, statutory law, and the common law in Illinois and the nation was in flux as social change presented new challenges to ideas such as criminal rights, the power of government, and family structures. In dealing with those issues Underwood earned the respect of the bench and bar by showing his constant concern for the effect of his opinions upon people and not losing sight of the human element in pursuit of legal abstractions.⁵ Underwood admitted to conservative tendencies, as shown in his opinion in *Hewitt v. Hewitt*.⁶ In this case a woman was suing a man in what had become known as a palimony suit. The two had lived together for years and even raised children while she worked to put the man through medical school. The Supreme Court ruled against her because, as Underwood wrote, to rule in her favor would have the effect of legalizing common law marriages in Illinois when state statutes did not authorize them. The opinion was unpopular but matched his ideas concerning judicial restraint.

However, in *Hickey v. Illinois Central*, Underwood’s’ opinion for the court came down on the side of local government in a property-ownership case of great consequence. The court held that the Illinois Central Railroad Company had no valid claim over lakefront property in Chicago that it had occupied for over a century. The land and landfill in question had become Grant Park, Lake Shore Drive, and some of the most densely developed and valuable property in the city.⁷

During 1969, the worst scandal ever to involve the Supreme Court resulted in a serious crisis. Chief Justice Roy Solfisburg and Justice Ray Klingbiel resigned from the court after an investigating commission accused them of improprieties in accepting stock from a Chicago bank.

At the same time Justice Byron House suffered a stroke and was unable to execute his responsibilities. When the court convened for its September 1969 session only four justices sat on the bench, which meant that all opinions would have to be unanimous since the state constitution required the agreement of four justices for a majority for the eight hundred cases pending before the court. Underwood was elected Chief Justice to serve through this extraordinary time.⁸ Underwood was the right person to represent the court to a doubting and uncertain public. His unimpeachable integrity restored confidence in the court as it faced new ethics rules and, in 1970, a brand new state constitution. Shorthanded on the bench, taking up the task of implementing new strict rules on judicial conduct, and assuming the responsibility for the administration of the state's entire judiciary as provided in the new constitution Underwood's exemplary leadership earned him lifelong honor and respect.⁹

The intelligence and love of the outdoors with which nature endowed him was not reflected in the weaknesses of his body. A congenital condition left him with noticeably enlarged hands and feet. In December 1963, he was stricken with an intestinal condition that left him hospitalized and near death for several weeks. His recovery required a transfusion of thirty pints of blood, many of which the legal community in Chicago provided.¹⁰ In 1977, he was afflicted with phlebitis, a condition that caused him to sit on the court bench with his leg raised, out of sight of those coming before him.¹¹

After twenty-two years on the Supreme Court bench he announced his intent to retire on December 3, 1984, when his term came to an end. After more than twenty-two years as a Supreme Court justice, during which he frequently worked nights and weekends, he said that he had reached the point at which he preferred less demanding duties.¹² His tenure on the Supreme Court was among the longest in the history of the court, as was his position as Chief Justice from

1969 to 1975. His total of thirty-eight years as a judge has been surpassed by few. Although he left the bench he did not retire from the law. He entered the Bloomington law firm of Dunn, Goebel, Ulbrich, Morel & Hundman.¹³

He collapsed and died in his kitchen at home on March 30, 1988, at age seventy-two. He was survived by his wife Dorothy Roy Underwood, his daughter Susan Louise Barcalow, and two grandchildren. His funeral was held at the First Methodist Church of Normal, followed by burial in the Funk's Grove Cemetery in nearby Funk's Grove.¹⁴

During his long career he held membership in more than a dozen professional groups and served on boards of directors for dozens of local and statewide organizations for legal and social issues. He achieved the rank of thirty-third degree Mason, was awarded four honorary degrees from colleges and universities in Illinois, the University of Illinois Outstanding Alumni Achievement Award, the Illinois State Bar Association's Award of Merit, and many others. A few days after his retirement he was given special recognition in a legislative ceremony in the state capitol. Of all his awards and honors, among those he found most gratifying was the city of Normal's naming Underwood Park for him.¹⁵

¹ *Pantagraph* (Bloomington, IL), March 31, 1988, p. B7.

² *Ibid.*

³ *Kankakee Daily Journal*, October 3, 1983, p. 5.

⁴ *Illinois State Journal* (Springfield), January 27, 1962, n.p., *Illinois State Journal-Register*, May 2, 1962, n.p. Quotation on his lack of enemies is a lengthy feature article by Bernie Schoenberg, "Justice Robert Underwood's Life of Law and Justice," *Bloomington Pantagraph*, November 25, 1984, pp. A4-A5.

⁵ Walter V. Schaefer, "Tribute to Justice Underwood," *University of Illinois Law Review*, v. 1984, no. 4 (1984), p. 861.

⁶ Nina Burleigh, "The Views of Bob Underwood, Retired But Not Reticent," *Illinois Issues* (March, 1985), pp. 13-18; *Victoria L. Hewitt v. Robert M. Hewitt*, 77 Ill.2d 49 (1979).

⁷ *Lawrence P. Hickey et. al., Appellants, vs. Illinois Central Rail Road Company, Appellee*, 35 Ill. 2nd 427 (1966), also as 278 F. 2nd 529, *cert. den.* 364 U.S. 918.

⁸ *Illinois State Journal*, September, 9, 1969, p. 1. Every media outlet in the state covered the scandal through the spring and summer of the year.

⁹ See for example his obituary in the *Chicago Tribune*, March 31, 1988, p. 14.

¹⁰ Note to Chief Justice Ray Klingbiel, January 20, 1964, in Robert C. Underwood file, Illinois Supreme Court Library.

¹¹ Unsigned note, June 21, 1977, in Robert C. Underwood file, Illinois Supreme Court Library.

¹² Press release from Supreme Court Administrative Office, October 3, 1983, in Robert C. Underwood file, Illinois Supreme court Library. He made the announcement over a year in advance in order to allow ample time for potential candidates prepare their nominating petitions.

¹³ *Bloomington Pantagraph*, March 31, 1988, p. B7.

¹⁴ *Ibid.*

¹⁵ *Kankakee Daily Journal*, December 13, 1984, p. 24; *Bloomington Pantagraph*, September 12, 1982, p. A4.