

Elwyn R. Shaw 1933-1942

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Elwyn Riley Shaw was born in Lyndon, Illinois in Whiteside County on October 19, 1888, to William H. and Ella Moore Shaw. His father was a banker and owner of a grain elevator. He attended local rural elementary schools and in 1903, enrolled in high school in nearby Sterling where he earned a reputation as one of the school's brightest students. After high school, he attended the University of Michigan, which granted him a Bachelor of Laws degree in 1910. He was only twenty-one years old.¹



Rather than returning home after receiving his law degree, he moved to Freeport, Illinois and lived with his brother Robert who practiced medicine there. After passing the bar in that same year, he worked in the law office of William N. Cronkite, one of the area's most prominent attorneys. In 1913, he opened his law office, marking the beginning of his notable career as a trial lawyer.²

The year 1913 was also the year in which he married Edith Griffin. They met when both attended the University of Michigan and subsequently maintained their affection for each other after graduation. He traveled to Battle Creek, Michigan, Edith's hometown, for their wedding. They had two daughters, Mary Margaret and Joan. The marriage ended tragically when Edith, suffering from nervous disorders, shot herself to death in her home in 1942. In 1944, Shaw married Miss Mildred Voight of Freeport. The wedding ceremony took place in Washington

D.C., where his daughter Joan's husband was the recently appointed assistant choirmaster at the Washington National Cathedral. Elwin and Mildred Shaw had no children together.³

Shaw's law office became a very busy place. It was so busy that he had to limit the number of his clients. He was interested in a more public life, serving, for example, as an alternate delegate to the 1932 Democratic National Convention, but as a Democrat in a heavily Republican region he had little chance of gaining public office. However, he was such a popular person in the community that he successfully ran for the Freeport Board of Education in early 1933 as a test of whether that popularity could be turned into Democratic votes. As a result of that victory, he decided to run for the Illinois Supreme Court in the June 1933 election. He won, helped in part by Franklin Roosevelt's landslide election the year before. At age forty-four, Shaw was one of the youngest-ever elected justices. In June 1938, when he rotated into the position of Chief Justice at age forty-nine, he was also among the youngest Chief Justices of the court as well.⁴

As a jurist, Shaw held the modern belief that law is a science. Once when admitting new lawyers to the bar he reminded them metaphorically that while like any other science the law "constantly puts out new branches and twigs, the trunk and main branches always consist of the old and no longer questioned principles which know no change," and cautioned them with the admonition that "if you can learn to think along these scientifically correct lines you may safely allow yourself to feel your way out along the smaller branches, always remembering that when you find an idea which is foreign to the parent tree you are probably on the wrong track."⁵

His opinion in *Sundquist v. Hardware Mutual Insurance Co.* was considered by some to be a masterpiece of learning and logic. He wrote that in civil cases involving arson, the arson

must be established beyond a reasonable doubt, as in criminal cases, and persuaded the court to overrule prior law.⁶

His reputation as a keen scholar did not help him politically. When Shaw ran for reelection to the court in 1942, the voters elected Republican William J. Fulton of Sycamore to the court by a margin of more than 22,000 votes. In the same election, Republicans gained a five-to-two majority on the Supreme Court and a majority in both houses of the state legislature as well as all statewide offices except for Secretary of State. Shaw had achieved the highest position in the state's judicial system, but even though he no longer sat on the bench his legal career was far from over. As soon as his defeat became imminent, his supporters began a movement to have him appointed to fill a vacancy created by the death of Charles E. Woodward on the United States District Court for the Northern District of Illinois, which was located in Chicago.⁷

The effort to have Shaw appointed to the federal bench was significant because it had been customary to have a jurist from Chicago fill the seat. Woodward, however, had been a resident of Ottawa, almost one hundred miles from Chicago. As a result, the downstate Democrats of northern Illinois had come to regard Woodward's seat on the court as a "downstate seat" and urged that the deceased judge's successor should also be from downstate. Federal judges are appointed by the President of the United States, but in practice the president ordinarily acts upon the suggestion of a state's senior senator of the president's political party. In this case, the senator was Democrat Scott W. Lucas, who had several names in mind, including Shaw's. John P. Devine, a former speaker of the house in the state legislature, of Dixon led Shaw's supporters. It would take almost two years before the appointment was made, but President Franklin Roosevelt appointed Shaw, who took his seat on the federal bench on May 9, 1944. He

had taken the unusual step of moving from a court of last resort in a state legal system to a trial court in the federal legal system.⁸

In the interim, Shaw served on the National Railway Mediation Board. These were the more difficult years of World War II when the problems of transition to a war economy unsettled normal procedures in business and industry. The ordinary tension between management and labor was exacerbated by the necessities accompanying the war effort. Shaw's specialties in practice had been insurance and contract law; his new position required him to become an expert on the laws dealing with capital and labor. He rose to the occasion, publishing many articles on the subject. As an added benefit, he developed a national outlook that would assist him as a federal judge.⁹

Shaw was able to divide his time on the bench between the federal courthouse in Chicago and the courthouse in the District's western division in Freeport, allowing him to continue living on his farm near Cedarville a few miles north of Freeport. He had developed a reputation as a legal scholar and enjoyed studying Abraham Lincoln, often using Lincoln quotes and references in his conversation and correspondence. He was welcomed in the highest offices in the land yet preferred to live in rural surroundings. He enjoyed hunting and fishing and professional sports. He came into contact with sports figures and enjoyed socializing with them. He considered the flamboyant baseball figure Connie Mack among his friends.¹⁰

On the morning July 18, 1950, he was at his farm preparing to catch the train to attend court in Chicago when he suffered a heart attack and died almost instantly. He was sixty-two years old and left behind a widow, two daughters, and two grandchildren. He is buried at Oakland Cemetery in Freeport.¹¹

¹ *Chicago Bar Record*, 32 (1950-1951), 140; *Freeport Journal-Standard*, 18 July 1950, 1; 407

Ill. 11.

² *Ibid.*

³ *Chicago Daily Tribune*, 7 June 1938, 2; *Chicago Bar Record*, 140; *Freeport Journal-Standard*, 18 July 1950, 1; 407 Ill. 11.

⁴ *Ibid.*; *Freeport Journal-Standard*, 18 July 1950; *Chicago Daily Tribune*, 7 June 1938, 2.

⁵ Excerpts from Response on Behalf of the Court to motion from admission of sixty-five new lawyers in the Supreme Court of Illinois, 14 December 1933, *Kansas City Law Review* 2 (1933-1934), 88.

⁶ *Sundquist v. Hardware Mutual Insurance Co.*, 371 Ill. 360 (1939); 407 Ill. 22.

⁷ *Chicago Daily Tribune*, 3 June 1942, 4.

⁸ *Ibid.*; 407 Ill. 15-16.

⁹ *Ibid.*; *Chicago Bar Record*, 140; “Elwyn R. Shaw,” *Journal of the National Association of Referees in Bankruptcy*, 24 (1950), 136.

¹⁰ 407 Ill. 11-22.

¹¹ *Ibid.*; *Chicago Bar Record*, 140; *Freeport Journal-Standard*, 18 July 1950, 1.