

Walter V. Schaefer
1951-1976

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A highly regarded scholar who served on the Illinois Supreme Court for twenty-five years, Walter Vincent Schaefer was born in Grand Rapids, Michigan on December 10, 1904. The



son of Elmer Philip and Margaret O'Malley Schaefer, Walter's parents died when he was a boy; two aunts "reared, cared for, and inspired" the young Walter.¹ He graduated from Hyde Park High School in Chicago. At the University of Chicago he played on the baseball team and captained the tennis team that twice won the Big Ten championship. Graduating in 1926 with a philosophy degree, he intended to become an airplane pilot, but after a relative persuaded him to enter law school, he received his University of

Chicago law degree in 1928. Admitted to the Illinois bar, he spent the next two years drafting statutes for the Legislative Reference Bureau of the Illinois General Assembly.²

From 1929 to 1934, Schaefer associated with Tollman, Sexton & Chandler law firm in Chicago, spent a year in Washington, D.C. as litigation attorney for the Agricultural Adjustment Administration, then returned to Chicago for two years with the Reconstruction Finance Corporation. A principal author of the Illinois Civil Practice Act, adopted in 1933 to modernize the practice of Illinois law, Schaefer assisted Yale Law School dean Charles Clark in preparing

the Federal Rules of Civil Procedure. Schaefer served from 1937 to 1940 as an assistant City of Chicago corporation counsel.³

On June 3, 1940 Schaefer married Marguerite Moreland Goff, whom he had met while working at the Reconstruction Finance Corporation. They moved from Chicago to the suburb of Lake Bluff, and their family would comprise of a daughter and three sons.⁴ A Northwestern University professor of law from 1940 to 1951, he numbered among his students John Paul Stevens, later a justice on the U.S. Supreme Court. Former pupils, whom he fondly called “the Kids,” remembered Schaefer’s “almost biblical pragmatism,” and colleagues recalled his “wise and patient mentoring of junior faculty members.” In addition to his teaching position, Schaefer served for a year as U.S. District Court bankruptcy referee and for two years as chair of the Illinois Commission to Study State Government, known as the Schaefer Commission. In 1949, he became chief legislative aide to newly elected Democratic Governor Adlai E. Stevenson.⁵

In March 1951, Stevenson appointed Schaefer to the Supreme Court vacancy created by the death of Justice Francis S. Wilson. In June of that year, Schaefer won election to the position, was reelected in 1960 with support from both the Republican and Democratic parties, and was retained in 1970. Schaefer served as Chief Justice from May 1953 to September 1954 and again from September 1960 to September 1961.⁶

Schaefer recalled the importance of one his first cases on the high court: *People ex rel. Wallace v. Labrenz* in 1952. The parents of eight-day-old Cheryl Linn Labrenz refused on religious grounds to allow a blood transfusion to treat her steadily deteriorating Rh blood condition. Two physicians testified in Cook County Circuit Court that without a transfusion the infant would die; a third stated that she might survive but would likely suffer permanent brain injury. The court appointed probation officer Alda Wallace as guardian of the child and directed

him to consent to a blood transfusion. Following the procedure, the child's health greatly improved and the parents regained custody. "The propriety of that action is challenged here upon a writ of error raising constitutional issues," Schaefer explained in delivering the opinion affirming the Circuit Court:

We find that the present case falls within that highly sensitive area in which governmental action comes into contact with the religious beliefs of individual citizens. Both the construction of the statute under which the trial court acted and its validity are challenged. In situations like this one, public authorities must act promptly if their action is to be effective, and although the precise limits of authorized conduct cannot be fixed in advance, no greater uncertainty should exist than the nature of the problems makes inevitable. In addition, the very urgency which presses for prompt action by public officials makes it probable that any similar case arising in the future will likewise become moot by ordinary standards before it can be determined by this court. For these reasons the case should not be dismissed as moot.⁷

"It was," Schaefer later recalled, "one of the most dramatic opinions, at least to me."⁸

In what became a landmark death-penalty case in 1967, *People v. Witherspoon* concerned jurors "with scruples against capital punishment." William C. Witherspoon appealed his Cook County Circuit Court conviction and death sentence for the 1960 murder of a police officer. Witherspoon contended that he was denied the right to counsel prior to confessing to the crime, that his confession was coerced, and that eliminating prospective jurors with scruples against capital punishment violated his right to trial by a jury representing a cross-section of the

community. Justice Schaefer wrote the opinion affirming the lower court, finding no evidence to support Witherspoon's contentions. Schaefer quoted *People v. Hobbs*, 35 Ill. 2d. 263 when he wrote, "Being not opposed to capital punishment is not synonymous with favoring it."⁹

Witherspoon's attorneys appealed the decision to the U.S. Supreme Court. In *Witherspoon v. Illinois*, Justice Potter Stewart delivered the majority opinion in 1968 reversing the death sentence on constitutional grounds. When the Illinois courts, Stewart wrote, "swept from the jury all who expressed conscientious or religious scruples against capital punishment and all who opposed it in principle, the State crossed the line of neutrality. In its quest for a jury capable of imposing the death penalty, the State produced a jury uncommonly willing to condemn a man to die."¹⁰ Witherspoon was then sentenced to 50 to 100 years in prison and obtained parole after serving twenty years.¹¹

Retiring from the Supreme Court in 1976, Schaefer returned to the private practice of law with the Chicago firm of Rothschild, Barry & Myers, and lectured at Northwestern University. He discussed his lengthy judicial career in a 1977 *Illinois Issues* interview. Regarding the most significant decisions of his tenure, he smilingly said, "The opinion a judge is working on at that precise moment is always, to him, the most important. By the time it becomes news generally, it's stale to him." In preparing an opinion, Schaefer recalled that he usually wrote several drafts. "I can write better if I work with something on paper in front of me," he explained. "Usually the essence of a case boils down to one or two sentences. You should write an opinion that is understandable. I usually try, if I have time enough, to write in words of one syllable. I think it's important, I think it helps." Sometimes, he recalled, he and his law clerks would thoughtfully argue the issues, noting one occasion involving law clerk Adlai E. Stevenson III, later a U.S. Senator and son of the Governor who appointed Schaefer to the Supreme Court. Stevenson,

according to Schaefer, “insisted a particular case should be decided in a certain way. I felt otherwise; he came back, politely and insistently, and dammit he persuaded me, and the whole court was persuaded.”¹²

Schaefer held honorary degrees from John Marshall Law School, the University of Chicago, Northwestern University, University of Notre Dame, DePaul University, and Lake Forest College. He received numerous awards, including the American Bar Association’s highest recognition, the Gold Medal, in 1969, only the thirty-fourth American lawyer bestowed that recognition. “Justice Schaefer has brought to the Illinois Supreme Court a comprehensive knowledge of the law, a broad vision, and a wide, humanitarian approach,” read the award citation. “He is neither a liberal nor a conservative, neither a strict constructionist nor an activist. He is aware of both the obligations and the limitations of judicial office. He has helped to keep the law of Illinois abreast of the times without undue assertion of judicial prerogative.”¹³

Schaefer died of cancer at age eighty-one on June 15, 1986 in Lake Forest Hospital. His family held a memorial service at Northwestern University School of Law, followed by private burial. *Northwestern University Law Review* dedicated its December 1986 issue to Justice Schaefer, with remembrances from friends and associates. He “was completely devoted to freedom,” wrote U.S. Supreme Court Justice William J. Brennan, Jr., “and had supreme confidence in the principles that make our democratic society work. He was a man of principle, and a wholly compassionate, complete human being who never lost sight of the human dimensions of the great problems that confront society.”¹⁴

¹ *Northwestern University Law Review* (December 1979), p. 694.

² *Northwestern University Law Review* (December 1986), p. 1148.

³ *Northwestern University Law Review* (December 1979), pp. 680, 707; *Illinois Bar Journal* (September 1969), p. 66; John R. Vile, ed., *Great American Judges; An Encyclopedia* (Santa Barbara, CA: ABC-CLIO, 2003), p. 678.

⁴ *Northwestern University Law Review* (December 1979), pp.679-80, 699.

⁵ Vile, *Great American Judges*, p. 679; Bill Barnhart and Gene Schlickman, *John Paul Stevens; An Independent Life*, (DeKalb: Northern Illinois University Press, 2010), p. 80.

⁶ *Chicago Tribune*, 17 June 1986, p. 10.

⁷ *People ex rel. Wallace v. Labrenz*, 411 Ill. 618 (1952) at 623.

⁸ Ed Nash, "Retiring justice of Illinois Supreme Court: Walter V. Schaefer," *Illinois Issues* (January 1977), p. 9. <http://www.lib.niu.edu/1977/ii770108.html>.

⁹ *People v. Witherspoon*, 36 Ill. 2d. 467 (1967) at 476.

¹⁰ *Witherspoon v. Illinois*, 391 U.S. 510; Evan J. Mandery, *Capital Punishment: A Balanced Examination* (Sudbury, MA: Jones and Bartlett, 2005), pp. 464-68.

¹¹ *Chicago Tribune*, 6 March 1990, Sec. 2, p. 8.

¹² Nash, "Retiring justice of Illinois Supreme Court: Walter V. Schaefer," *Illinois Issues*, p. 9.

¹³ *Illinois Bar Journal*, (September 1969), p. 66.

¹⁴ *Northwestern University Law Review* (December 1986), p. 1146.