

THE SUPREME COURT OF ILLINOIS.

BY JAMES E. BABB.

COURTS have been maintained by different sovereignties, administering different systems of law, in the territory which now constitutes the State of Illinois.

Though Spain claimed the territory, it never through a judicial tribunal exercised jurisdiction therein.

The claim and jurisdiction of France became quite well settled and defined. In 1712 Louis XIV. by Letters Patent granted the territory of which Illinois was a part to M. Crozat, "under the name of the Government of Louisiana." Article VII. of the Letters Patent provided that "Our edicts, ordinances, and customs, the usages of the mayoralty and shrievalty of Paris, shall be observed for laws in the said country of Louisiana."

Louisiana during French rule was divided into nine districts. One of these was called Illinois. Each had a governor and a judge. From the decisions of these district judges there was an appeal to a Superior Court, which sat at New Orleans.

In "Early History of Illinois," by Sidney Breese, copies are given from the records of judicial proceedings before magistrates of these courts.

By a treaty concluded between France and England at Paris, Feb. 10, 1763, the jurisdiction of France over this territory ended and that of England began. King George III., Oct. 7, 1763, issued a proclamation providing for English government.

Lieut.-Col. John Wilkins, the British military commandant of the territory, issued a proclamation, Nov. 21, 1768, stating that by order of Gen. Thomas Gage, Commander-in-Chief of the British forces in North America, he was to establish a court of justice in Illinois, for settling all disputes and controversies between man and man, and all claims in relation to property, both real and personal.

As military commandant, Colonel Wilkins appointed seven judges, who met and held their first court at Fort Chartres, Dec. 6, 1768. Courts were thereafter held each month.

In Moses' History of Illinois, vol. i, p. 140, it is said that this was "the first British court west of the Alleghanies. Instead of appeasing, it increased the discontent of the French; it was repugnant to all their ideas of justice that the rights of persons and property should be safer in the hands of a panel of miscellaneous tailors and shoemakers, than in those of erudite and dispassionate judges."

In 1778 Col. George Rogers Clark, pursuant to a letter of direction from Patrick Henry, Governor of Virginia, dated Jan. 2, 1778, captured the British posts in the vast territory of the Northwest, and sent the British Governor of Illinois a prisoner to Williamsburg, the capital of Virginia. Thereupon, in October, 1778, the House of Burgesses of Virginia enacted that all the citizens of the Commonwealth of Virginia "who are already settled or shall hereafter settle on the *western side of the Ohio* shall be included in a distinct county which shall be called *Illinois County*; and the Governor of this Commonwealth, with the advice of the Council, may appoint a County Lieutenant or Commandant-in-Chief in that county, who shall appoint and commission so many deputy commandants, militia and officers and commissaries, as he shall think proper, all of whom shall take the oath of fidelity to this Commonwealth."

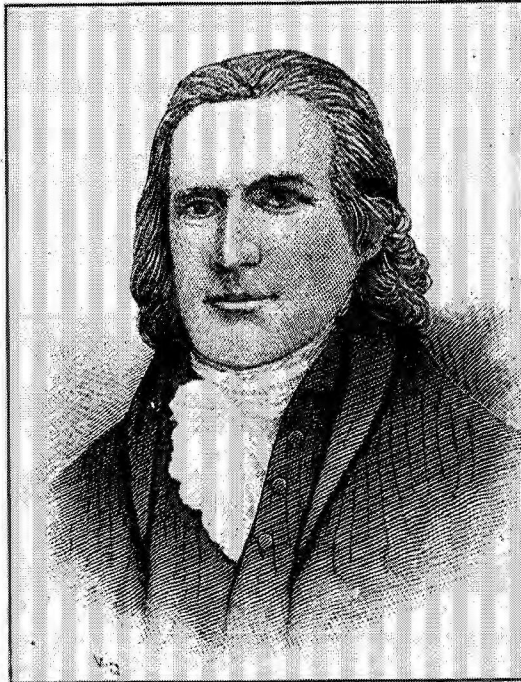
John Todd, of Kentucky, having been appointed Lieutenant of Illinois County, issued his proclamation as such at Kaskaskia, June 15, 1779. In the same month a court of civil and criminal jurisdiction was instituted at Post Vincennes, which was composed of

several magistrates. Col. J. M. P. Legras acted as president of the court, and in some cases exercised a controlling influence over its proceedings. Adopting in some measure the usages and customs of the early French commandants, the magistrates of the court of Post Vincennes began to grant or concede tracts of land to the French and American inhabitants of the town, and to different civil and military officers of the country. The commandant and magistrates, after having exercised this power for some time, began to believe that they had the right to dispose of all that large tract of land which had been granted for the use of the French inhabitants of Post Vincennes. Accordingly the country was divided between the members of the court, and orders to that effect entered on their journal; each member absented himself from the court on the day that the order was to be made in his favor. (Western Annals, 698.) Other magistrates of this court were F(rancis) F. Bosseron, L(ouis) Edeline, P(ierre) Gamelin, P(ierre) Querez.

The decisions of the Court of Last Resort in Virginia during the time this territory constituted Illinois County of Virginia, are reported in the first few pages of 4 Call's Reports, and include the case of Commonwealth *v.* Caton, celebrated in constitutional history.

By a process the details of which are well known, the State of Virginia on March 1, 1784, made to the United States a deed of

cession of the lands northwest of the Ohio River. In the following April Congress provided for the maintenance of a temporary government of that territory, which provision was on July 13, 1787, repealed, and in lieu thereof there was then enacted the famous Ordinance for the Government of the Territory of the United States northwest of the River Ohio.



JOHN CLEVES SYMMES.

By this ordinance there were to be appointed for the territory a governor and three judges, the latter to form a court and have common-law jurisdiction. The governor and judges were given authority with certain qualifications to enact laws until the territory should have a population of five thousand free male inhabitants of full age, when it was provided that a General Assembly should be elected with legislative authority.

The first judges chosen for the Northwest Territory were Samuel Holden Parsons, James Mitchell

Varnum, and John Armstrong; the last declining to serve, John Cleves Symmes succeeded him. Those who thereafter served as judges under this ordinance were George Turner, who took the place declined by William Barton; Rufus Putnam, the one made vacant by Samuel Holden Parsons; Joseph Gilman, who succeeded Putnam, and Return Jonathan Meigs, Jr., the successor of Turner.

Parsons was born at Lyme, Connecticut, May 14, 1737, was graduated at Harvard at nineteen, admitted to the bar, served eighteen

sessions in the Assembly of Connecticut, was a member of the Constitutional Convention of that State in 1778, and a Brigadier-General in the Revolutionary War. He died Nov. 17, 1789.

Varnum was born at Duxbury, Massachusetts, Dec. 17, 1748, was graduated at Brown College with first honors, was a Brigadier-General in the Revolutionary War, and thereafter became a distinguished lawyer and brilliant orator in Massachusetts. He was a brother of Joseph Bradley Varnum, United States Senator from Massachusetts. He died at Marietta, Ohio, Jan. 10, 1789.

John Cleves Symmes was born on Long Island, New York, July 21, 1742. He was a delegate to the Continental Congress from Delaware, judge of the Superior Court and Chief-Justice of New Jersey. His wife was a daughter of Gov. William Livingstone; his daughter, Anna Symmes, married President William Henry Harrison. He died at Cincinnati, Feb. 26, 1814.

Putnam was from Massachusetts. He was a cousin of Gen. Israel Putnam. He was a member of the Massachusetts Legislature, a Brigadier-General in the Revolution, one of the prominent members of the Ohio Company of Associates, Surveyor-General of the United States, and a member of the Constitutional Convention of Ohio in 1803. He died at Marietta, Ohio, May 1, 1824.

Return Jonathan Meigs was a son of a distinguished Revolutionary soldier of Connecticut of the same name, to which it seems a

bit of romance is attached. The grandfather of the judge, after several refusals from his lady-love, mounting his horse to leave her for the last time, heard her then relenting call, "Return, Jonathan." These words he gave his son, the father of our subject, for a name.

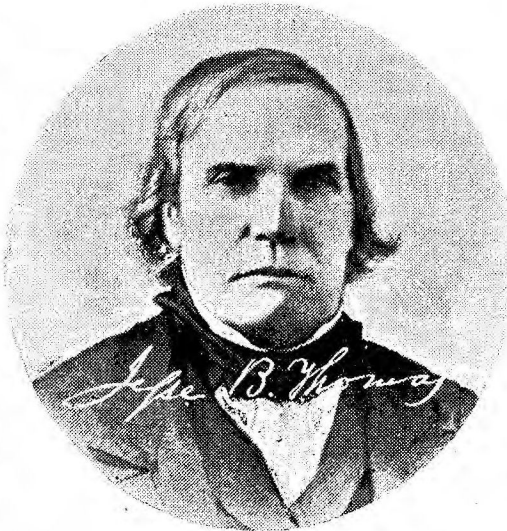
Judge Meigs was graduated at Yale with

first honors, was a member of the first General Assembly of the Northwest Territory, Federal Judge in Michigan and Louisiana, United States Senator, Chief-Justice of the Supreme Court of Ohio, and Postmaster-General. He died at Marietta, Ohio, March 29, 1825. Judge Turner was born in England in 1750. He was a captain in the Revolutionary War, and died at Philadelphia, March 16, 1843.

Joseph Gilman was from Exeter, New Hampshire, and was probably a cousin of Nicholas Gilman, who was a member of the

Constitutional Convention of 1787 from New Hampshire.

The Governor, General Arthur St. Clair, and the judges, first met as a legislative body at Marietta, Ohio, July 15, 1788, when a code of laws was adopted. The laws were largely taken from those in force in Pennsylvania, Massachusetts, Virginia, New York, Connecticut, New Jersey, and Kentucky. In 1795 a Virginia Act of May 6, 1776 (adopting the Common Law and Statutes of England of a general nature, prior to the fourth year of the reign of James I.), was adopted.



JESSE BURGESS THOMAS.

The first General Assembly of this Territory enacted that applicants for admission to the bar should produce a certificate that they had read law four years.

The first session of court for the trial of causes was opened Sept. 2, 1788, at Marietta, Ohio, with impressive ceremonies. At first the Supreme Court sat at Marietta, Cincinnati, Vincennes, and Kaskaskia; later Detroit was added to the circuit, and this wide circuit the judges travelled on horseback. The court had power to review the decisions of courts inferior to it, but there was, it is stated, no appeal from its own decisions.

May 7, 1800, Congress passed an act which created within the limits of the Northwest Territory Indiana Territory. Indiana Territory thus constituted included the present bounds of Indiana and Illinois.

William Clark (in the statutes of Indiana Territory spelled "Clarke"), Henry Vanderburgh (in the statutes of Indiana Territory spelled "Vander Burgh"), and John Griffin were appointed the judges of Indiana Territory. They, with the Governor, William Henry Harrison, until 1805, when the first Assembly met, had powers of legislation similar to those of the governor and judges of the Northwest Territory.

Jan. 12, 1801, the governor and judges met at Vincennes and enacted laws, those of the Northwest Territory being largely adopted; and there, March 3, the first session of the court was held. In 1808 an act

was passed requiring this court to deliver its opinions in writing.

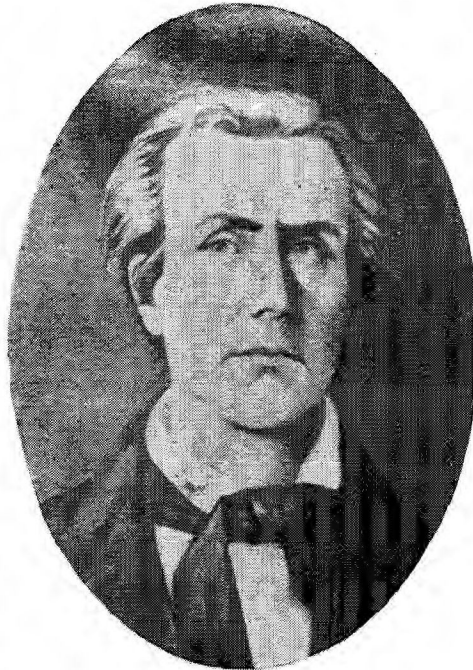
William Clark was a younger brother of the celebrated Gen. George Rogers Clark. After his term as judge of Indiana Territory he became a resident of St. Louis, as agent of the United States in charge of Indian affairs, and the associate of Lewis in the famous "Lewis and Clark Expedition." He was

governor of Missouri Territory from 1813 till it became a State. Thomas Terry Davis succeeded Clark in 1803. Davis was one of the trustees named in the act incorporating "Vincennes University."

Vanderburgh was a resident of Vincennes, and a representative from there in the first Assembly of the Northwest Territory, becoming the Speaker or President of the Upper House of that Assembly. Griffin was a native of Scotland, but came from Virginia to Indiana. He afterward became a judge of Michigan Territory. Later he

returned to Scotland to enjoy a fortune left him there. Feb. 3, 1809, an act was passed by Congress, dividing Indiana Territory into the territories of Indiana and Illinois; and March 7, Alexander Stuart, Obadiah Jones, and Jesse Burgess Thomas were appointed judges of Illinois Territory. They and Ninian Edwards, the Governor until an Assembly was elected in 1812, had legislative powers similar to those exercised by the governors and judges of the Northwest and Indiana Territories.

June 16, 1809, they enacted a code of



WILLIAM WILSON.

laws which were mostly copied from those of Indiana Territory. Dec. 13, 1812, the first Assembly of Illinois Territory adopted all laws passed by the Indiana Assembly and by the Governor and Judges of Illinois Territory which were in force. An act was passed in the same year which required this court to deliver its opinions in writing. In 1814 the judges were required to hold circuit courts.

This court had concurrent original jurisdiction in "all cases, matters, and things pertaining to property, real, personal, and mixed," and exclusive original jurisdiction of higher crimes and of all cases in equity where the amount involved was in excess of one hundred dollars. It also had appellate jurisdiction in all cases, and other special powers.

Alexander Stuart was a Virginian of education and gentlemanly address. He resigned almost as soon as appointed, and became one of the judges of Missouri Territory.

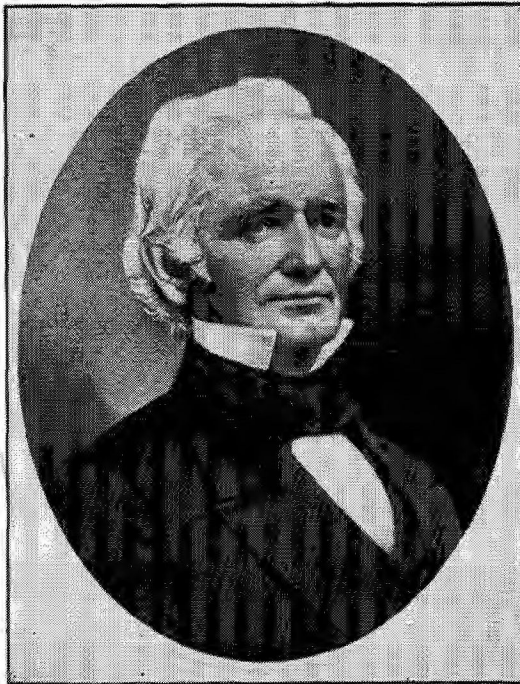
Stanley Griswold took the place of Stuart. He was born at Torrington, Connecticut, Nov. 14, 1763, was graduated at Yale in 1786, was in his early days a preacher and edited a paper at Walpole, New Hampshire. He was appointed Secretary of Michigan Territory in 1805. Thence he removed to Ohio, where he was appointed to fill an unexpired term in the United States Senate. Thence he came to Illinois. He died at Shawneetown, Illinois, August 21, 1815.

Henry Towles succeeded Griswold, and served during the remainder of the existence

of the court. He was a well-educated, native-born Irishman. He was Federal District Judge a short time after Illinois became a State.

Obadiah Jones was appointed Judge of Mississippi Territory in 1805; and at the end of his service in Illinois, he returned to his former position. Thereafter he became Judge of the Federal Court for the District of Mississippi.

William Sprigg succeeded Obadiah Jones in 1813, and served till 1818. In Reynolds's "History of Illinois," it is said that Sprigg "possessed a strong, discriminating mind, and made an excellent judge; he was a fine classical scholar and a well-read and profound lawyer. He was born in Maryland, and was of excellent family. His brother was the Governor of Maryland, and other relatives occupied important stations in that State. He had an utter contempt for street politics. A purer heart or one with more



SAMUEL DRAKE LOCKWOOD.

integrity never found its way to the bench." He was a judge of the Supreme Court of Ohio in 1803, and is undoubtedly the William Sprigg mentioned in the article in the "Green Bag" on the Supreme Court of Michigan.

The most distinguished of the judges of the Court of Illinois Territory was doubtless Jesse Burgess Thomas. It is alleged that he was a descendant of Lord Baltimore. He was born in Hagerstown, Maryland, in 1777, and studied law with his brother Richard Symmes Thomas, in Bracken County, Kentucky. In

1803 he located at Lawrenceburgh, Indiana Territory, and practised law. In 1805 he was elected to the first Assembly of Indiana Territory, of which he became Speaker. He presided until 1808, when he was elected delegate to Congress. He was commissioned by Governor Harrison in 1805 a Captain of Militia of Dearborn County. During his service in the Legislature he moved to Vincennes. On the organization of Illinois Territory in 1809 he moved to Kaskaskia, afterward to Cahokia, and later to Edwardsville. Having served during the existence of Illinois Territory (nine years) as a Judge, he became, in 1818, a member and President of the Convention which formed the first Constitution of Illinois. He was elected United States Senator from Illinois by the first Legislature of the State, and served as Senator from 1818 to 1828. In 1820 he introduced the Missouri Compromise; he was chairman of the Committee of Conference

on the measure, and it is stated that as adopted it was his work. In 1824 he was one of the caucus that nominated William H. Crawford for President. In 1840 he was active in securing the nomination of William Henry Harrison for President. At the close of his senatorial career he made Mt. Vernon, Ohio, his home, and died May 4, 1853. Judge Thomas was talented, dignified, commanding, respectful, and refined. In his intercourse with his fellow-men he acted upon a saying reputed to him, that "you could not talk a man down, but you could whisper him to death."



SIDNEY BREESE.

The Constitution of 1818 vested the judicial power in a Supreme Court and such inferior courts as the General Assembly might establish. The Supreme Court was given appellate jurisdiction only, excepting in cases relating to revenue, cases of mandamus, and certain cases of impeachment which might be required to be tried by it. The court at first consisted of a Chief-Justice and three Associates.

They were appointed by joint ballot of the two branches of the General Assembly and commissioned by the Governor. The office was held during good behavior until the end of the first session of the General Assembly convened after Jan. 1, 1824. Until that time the judges of the Supreme Court were to hold circuit courts as the General Assembly might require.

The State was divided into four circuits, within which the judges of the Supreme Court were required to perform circuit duties until the expiration of their terms.

In 1824 they were relieved of *nisi prius* service by a provision for the appointment of five circuit judges. In 1827 the Supreme Judges were required to hold circuit courts again as before 1824.

In 1829 a fifth judicial circuit was created in the northern part of the State and a judge was provided for, to hold court therein, leaving the judges of the Supreme Court to hold courts in the first, second, third, and fourth circuits. In 1835 the judges of the Supreme Court were again relieved of circuit duty, five circuit judges being elected in

addition to the one existing, and a sixth judicial circuit established.

No change was made in the Supreme Court until in 1841, when an act was passed repealing all laws authorizing circuit courts and judges thereof, and providing for election by the General Assembly of five additional judges of the Supreme Court, who should with those already in office constitute the Supreme Court, and who should hold all circuit courts.

By the Constitution of 1848, the Supreme Court consisted of only three judges. The State was divided into three grand divisions in each of which one judge was to be elected by the people for nine years. Vacancies if the unexpired term did not exceed one year might be filled by appointment of the Governor. Since the Constitution of 1848, the judges of this court have not been required to hold circuit court.

Under the Constitution of 1870, the court consists of seven judges, one of whom is chosen annually by the court as Chief-Justice. For the election of judges the State is divided into seven districts, in each of which one judge is elected by the people for nine years. The State is divided into the Southern, Central, and Northern Divisions, in each of which, at Mt. Vernon, Springfield, and Ottawa respectively, the sessions of the court have been held since 1848. Prior thereto and since the July Term, 1838, the court sat at Springfield. Theretofore and since the December term, 1820, the sessions were held

at Vandalia and theretofore at Kaskaskia. At the writing of this article a bill is pending in the Legislature which provides for holding all the sessions of the court at Springfield.

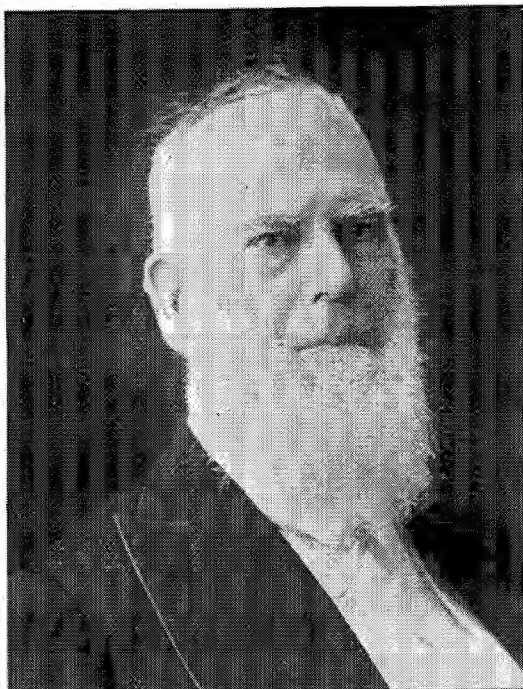
The first term of this court under the Constitution of 1818 was held in December, 1819, at Kaskaskia. It is said that up to the close of 1831 the court had not access to "even an ordinary Law Library."

The first judges were Joseph Philips, Chief-Justice, and Thomas C. Browne, John Reynolds, and William P. Foster, Associate Justices.

Foster is undoubtedly the most anomalous judge in the history of the court. He was from Virginia, and had been in the State only a few weeks before his appointment. He drew one year's salary and resigned. Thereafter, it is said, he became a roaming swindler.

Joseph Philips was born in Tennessee and received a classical education. He was a captain in the War of 1812, and Secretary

of Illinois Territory. He resigned from the Supreme Bench July 4, 1822, and in the fall following he was the pro-slavery candidate for governor of Illinois against Edward Coles. After an exciting campaign he was defeated by Coles, who had a plurality of only fifty votes. Philips, after his defeat, returned to Tennessee. He was a man of talent, education, and honor. The reported decisions of the court to the time of his resignation fill only nineteen pages, and it does not appear from them which of the judges wrote the opinions.



JOHN DEAN CATON.

John Reynolds was born in Montgomery County, Pennsylvania, Feb. 26, 1788. He came with his parents to Illinois, after living awhile in Tennessee. After pursuing a collegiate course he studied law in Knoxville, Tennessee, and was admitted to the bar at Kaskaskia in 1812. He served upon the Supreme Bench from Oct. 9, 1818, to August 31, 1822, was a member of three General Assemblies of Illinois, Speaker of the Lower House, a representative from Illinois in four Congresses, and its fourth Governor. He is the author of "Pioneer History of Illinois" and "My Own Times;" he died in Belleville in May, 1865.

Thomas C. Browne was born in Kentucky, studied law there, came to Shawneetown, Illinois, in 1812, served in the Legislature of Illinois Territory from 1814 till it became a State, was appointed prosecuting attorney in 1815, and served continuously on the Supreme Bench from Oct. 9, 1818, for a period of thirty years,—the longest term of service of any judge in the history of the court. During his life it was said of him by Reynolds, in his "History of Illinois," that "he possesses many excellent traits of character. He is endowed by nature with a strong intellect, and with a benevolence and goodness of heart that have marked his whole progress through life. . . . Honor, integrity, and fidelity are prominent traits in his character."

Ex-Chief-Justice John Dean Caton, a contemporary of Browne, writing of him in the "Chicago Legal News" of April 20, 1889,

said: "If he ever read a law book it was so long ago that he must have forgotten it. He had already occupied a seat upon the Supreme Bench for twenty-four years. . . . During all that time I have reason to believe that he never wrote an opinion. One of the opinions which appears to have been written by him in his reports, Judge Breese testified before the Legislature . . . that he wrote



JAMES SEMPLE.

for Browne. In the conference-room I never heard him attempt to argue any question, for he did not seem to be able to express his views in a sustained or logical form, and yet he was a man of very considerable ability. . . . He expressed himself in epigrams or short and pungent sentences which showed that he was a good thinker and had clear and distinct views of his own. He was a profound student of nature, and could judge with great accuracy not only of individual character, but of what would influence the minds of men."

An attempt was made to impeach Judge Browne before the Legislature of 1843, "for want of capacity to discharge the duties of his office." It is stated in Moses' "History of Illinois" (vol. i. p. 456), that the charge was "voted down by a nearly unanimous vote. Although a Whig he was able to command very strong support from leading Democrats, who regarded the attack upon him as a persecution set on foot by disappointed attorneys."

Without deciding the controversy, it may probably be safely said that Judge Browne

was not to the profession an ideal or even oftentimes a satisfactory judge; and that there were some disappointed attorneys among those who pressed the prosecution.

William Wilson, the successor of William P. Foster, was born in Loudon County, Virginia, in 1795; studied law with Hon. John Cook, a distinguished lawyer and Minister to France; came to Illinois in 1817, and was appointed to the Supreme Bench when only twenty-four years of age. He became Chief-Justice at twenty-nine, and remained on the bench for twenty-nine years until Dec. 4, 1848,—with the exception of Judge Browne's, the longest term of service in the history of the court. Judge Wilson died April 29, 1857, in White County, Illinois. The early age at which he went upon the bench, his long term of service, his modesty, efficiency, dignity, and sociability make him an interesting character. His first opinion after the reports begin to show by whom the



JOHN M. ROBINSON.

opinions were written, is in the case of *State Bank v. Kain*, Breese's Rep. 75; and his last is in the case of *Bruen v. Graves*, 4 Gilman, 283. Ex-Chief-Justice Caton, speaking of Wilson (*"Chicago Legal News,"* April 13, 1889), said: "He did not know all the law . . . but . . . he had the capacity to understand the law . . . with the reasons in support of it." Hon. James C. Conkling, speaking of him, says: "As a writer, his style was clear and distinct; as a lawyer, his judgment was sound and discriminating."

Thomas Reynolds was the second Chief-

Justice of the court. He succeeded Philips and preceded Wilson in that position. He was a younger brother of Judge John Reynolds; was clerk of the first and member of a subsequent General Assembly of Illinois; served as Chief-Justice from Aug. 31, 1822, to Jan. 19, 1825; moved to Missouri in 1828, and became Governor of that State in 1840.

Jan. 19, 1825, there came to the bench

Samuel Drake Lockwood and Theophilus Washington Smith. They, with Judges Browne and Wilson, constituted the court thereafter until Feb. 15, 1841.

Lockwood was born August 2, 1789, at Poundridge, in Westchester County, New York. He studied law with his uncle Thomas Drake, at Waterford, New York, was admitted to the bar in 1811, began practice at Batavia, New York, and became a Master in Chancery in 1813. He moved to Illinois in 1818; became its Attorney-General, receiver of Public Monies in the Edwards-

ville Land Office, Judge of the Supreme Court (which position he filled twenty-three years ten months and fifteen days), member of the Constitutional Convention of 1847, State trustee of the Illinois Central Railroad, charter trustee of the institutions for the insane, deaf, dumb, and blind, and until 1868 a trustee of Illinois College at Jacksonville, which was founded in 1829. The fourth opinion of Judge Lockwood was rendered in a peculiar political case. The State had in the office of Lieutenant-Governor Adolphus Hubbard, a politician fully the

equal of any of that profession of the present time. Governor Coles having taken a short leave of absence from the State, Hubbard assumed the Governor's office, and on the return of Governor Coles asserted the right under the Constitution to hold the office "until the time appointed for the election of Governor." Of course his first act was to appoint some officer. This honor was

conferred on W. L. D. Ewing, whom he appointed Paymaster-General of the Illinois Militia. Upon the refusal of the Secretary of State to issue a commission to the new appointee, application was made to the Supreme Court for a writ of mandamus to compel the Secretary to issue the commission. In an opinion evincing extended research, the application was denied. Of the twenty-three cases decided at the two terms in 1825, Judge Lockwood wrote the opinion in thirteen, as much of the work frequently devolved upon him. Hon. Al-

fred M. Craig, a judge of this court, in an address at the laying of the cornerstone of the Knox County Court House, in 1885, said: "Our criminal code, with but few amendments, has been in existence since 1825. It was drafted . . . by Judge Lockwood, one of the ablest judges our State ever produced. We had a constitutional convention in 1847, and again in 1870, since when the Legislature has revised our statutes; but while the statutes on various subjects were changed, the Criminal Code was found to need but few amend-

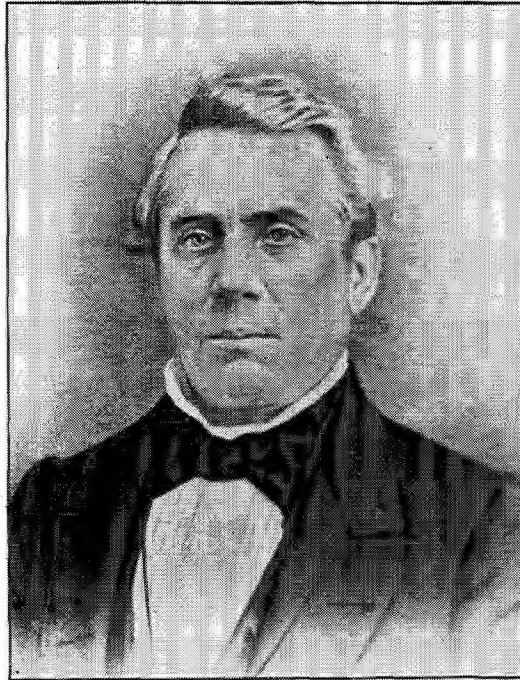
ments, and was left substantially as originally prepared in 1825."

Ex-Chief-Justice Caton said ("Chicago Legal News," April 20, 1889): "If Judge Lockwood was not a great man, he was a good man and a good judge. He had been a close student of the law. . . . His style of writing was easy and perspicuous . . . he was a close and accurate thinker." Judge

Lockwood died at Batavia, Illinois, April 23, 1874.

His "Life and Times" was written by William Coffin, and published at Chicago in 1889.

Judge Smith is one of the striking characters in the history of the legal profession in Illinois. He was born in New York City, Sept. 28, 1784, studied law in the office of Aaron Burr, was a fellow-student of Washington Irving, was admitted to the bar in 1805, came to Illinois in 1816, served two terms as State Senator, and upon the Supreme Bench for seventeen years eleven



GUSTAVUS P. KOERNER.

months and seven days. All historians have charged to him a great deal of political and other intrigue. His activity as a politician made him enemies. These enemies and his acts of doubtful honesty brought upon him a trial for impeachment in which he barely escaped defeat. In Linder's "Early Bench and Bar of Illinois," one of the many positions of apparently doubtful honor which he occupied is thus described: "Judge Smith delivered the opinion of the Supreme Court in the case of Beaubien against the United States, involving the title to the old Fort

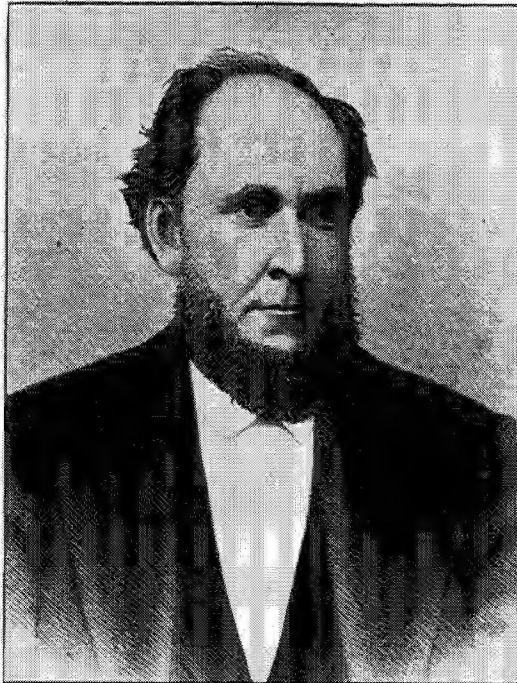
Dearborn property in Chicago. The opinion was in favor of Baubien. . . . Baubien had laid out the ground in town lots, and *had made deeds of gift to the different children of the judges of the Supreme Court*, of a considerable number of these lots. . . . Wilson and Lockwood had too much modesty to sit in the case, . . . but Smith and Browne had no such scruples." The Hon. Levi Davis, of Alton, in a recent letter writes of Judge Smith thus: "At Hillsboro in Montgomery County, in the fall of 1831, two incidents occurred of much prominence in Judge Smith's judicial life. A man named Dryer (if I rightly remember), a Quaker, came into court with his hat on, and Judge Smith directed the sheriff to order Dryer to remove his hat. This Dryer refused to do, and Judge Smith ordered him to jail. Judge Hall, a member of the bar, got up and said: 'Your Honor is not, perhaps, aware that Mr. Dryer is a Quaker, and wears his hat in

court from conscientious motives.' Judge Smith replied, 'I don't care; a man may take it into his head to come into court naked.' Dryer was sent to jail, where he remained until court convened the next morning, when Judge Smith directed that he be brought into court. Dryer stated his reasons for wearing his hat and was discharged. This incident created an intense excitement against the judge in Hillsboro, where Dryer was a much respected citizen. The other incident to which I have alluded was as follows: A suit was pending in the court between a man

named Jackson and an old German named Hillsabek. An application had been made for a change of venue. John S. Greathouse, a lawyer residing at Edwardsville, was Hillsabek's lawyer. When the court adjourned at noon, and as Greathouse was getting on his horse to go home, Hillsabek came to him and asked him where he wanted his case to be sent. Greathouse told him he didn't

care; Judge Smith might send it to hell, but he did not want it sent to any place where Judge Smith presided. As soon as court met after dinner, old Hillsabek came in, and walking up to the Judge's seat said, 'Judge, Squire Greathouse says he don't care where you send my case; you may send it to hell if you choose, but he don't want you to send it to any place where you preside.' 'Bring Mr. Greathouse into court,' said Judge Smith; and when the sheriff reported that Greathouse had gone, Judge Smith directed the clerk to enter an order suspend-

ing Mr. Greathouse from practising in his circuit for the period of eighteen months. At the next session of the Legislature, in 1832-1833, articles of impeachment were preferred against Judge Smith, and the incidents I have mentioned formed the main grounds for his impeachment. The trial excited great interest, it being the only one that had ever taken place in Illinois. Judge Breese was the leading counsel for Judge Smith; and Benjamin Mills, the most brilliant lawyer that ever lived in Illinois, was the leading manager on the part of the House of Rep-



ALFRED M. CRAIG.

representatives, and made one of his greatest efforts. . . . Judge Smith was a man of unquestioned ability, and in the courts in his circuits in which I practised he always presided with dignity, and was courteous and affable in his intercourse with the members of the bar. For some cause unknown to me, there was a bitter feeling existing against him on the part of some members of the bar at Edwardsville. As the Supreme Court sat in Vandalia during the session of the Legislature, Judge Smith could not, from some idiosyncrasy, resist the temptation to intermeddle with matters before the Legislature, and this trait in his character frequently subjected him to unfavorable criticism."

Judge Smith died at Chicago, May 6, 1846.

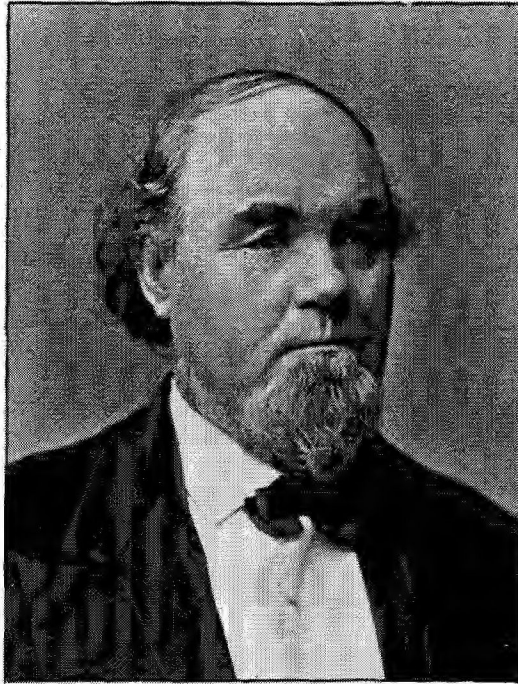
It is proper now to notice a storm of politics which came upon the court. A vigorous presidential campaign had engendered among the politicians deep-seated enmities.

The Democrats, having been unsuccessful in national politics, resolved to utilize their power in State affairs. The Supreme Court, containing three Whigs and only one Democrat, excited their special jealousy. A decision in *Field v. The People*, 2 Scammon, 79, and in another case contrary to the interests of the Democrats, afforded a reason for attack upon the court. Alexander P. Field, a Whig, had long been Secretary of State. Governor Carlin nominated John A. McClernand to the office, and the Senate refused to confirm him. Notwithstanding this, after

the Legislature adjourned, the Governor commissioned his nominee as Secretary of State, and McClernand being refused possession by the incumbent, sued out a writ of Quo Warranto. Judge Breese decided in favor of McClernand. Field* appealed to the Supreme Court, where Cyrus Walker, Justin Butterfield, and Levi Davis argued for the appellant, and J. B. Thomas, S. A. Douglas,

James Shields, and Wickliffe Kitchell argued for the appellee. The decision below was reversed. The court held, among other things, that the powers of appointment given the Governor by the Constitution did not authorize the Governor to remove an officer. Judge Browne did not sit in the case. The opinion was delivered by Judge Wilson; Judge Lockwood delivered a concurring, and Judge Smith a dissenting opinion.

These opinions occupy one hundred and four pages of the report, and review exhaustively the discussions of that interest-



PINKNEY H. WALKER.

ing question which had been made under the Federal and different State Constitutions.

This decision was so distasteful to the Democrats as to cause them in 1841 to force the passage of the act heretofore mentioned under which five Democrats were added to the four judges already upon the Supreme Bench. Those thus added were Thomas Ford, Sidney Breese, Walter Bennett Scates, Samuel Hubbel Treat, and Stephen Arnold Douglas. Ford was born at Uniontown, Pennsylvania, in 1800. He was a half-brother of Hon. George Forquer. He was successively pros-

ecuting attorney, Circuit Judge, a member of the Supreme Court one year and a half, and Governor of Illinois. He wrote a history of Illinois from 1818 to 1847. He died Nov. 2, 1850, at Peoria.

Scates was born at South Boston, Virginia, Jan. 18, 1808. He studied law in the office of Governor Morehead in Kentucky. He was assistant clerk of the Illinois House of Representatives, Circuit Judge, Attorney-General, Judge of the Supreme Court about ten years, Chief-Justice about two and a half years of that time, a member of the Constitutional Convention of 1847, and a Brigadier-General in the late war. From 1857 to 1862 and continuously after the war until his death, Oct. 26, 1886, he practised law in Chicago. He was one of the co-editors of Treat, Scates, and Blackwell's Statutes of Illinois, in force Dec. 1, 1857, in two volumes. The honors of Judge Scates were unsolicited offerings of the people. His integrity was unquestioned. His written opinions entitle him to, and he has received, high rank among the judges of the court.

Of Douglas, who was a judge of this court only from Feb. 15, 1841, till June 28, 1843, it is sufficient to say that his career in the House of Representatives, the United States Senate, his political debates with Abraham Lincoln, and other incidents, have given him a fame which renders further statement here unnecessary.

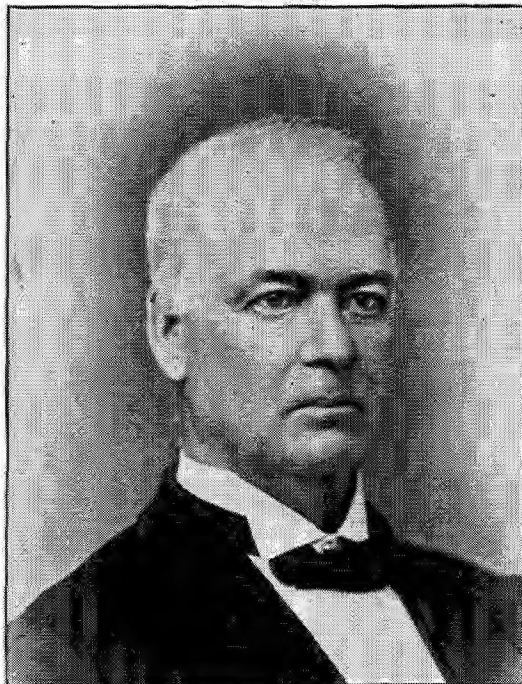
Treat was born in Otsego County, New York, June 21, 1811. He came to Illinois in

1834, became a Circuit Judge in 1839, which office he held until his elevation to the Supreme Bench in 1841. He remained upon the Supreme Bench about fourteen years. For six years he was Chief-Justice. In 1855 he was appointed Judge of the United States District Court for the Southern District of Illinois, which position he held till his death at Springfield, March 27, 1887. His long

list of written opinions are devoid of ostentation, and among the briefest and clearest that have been written. He was one of the co-editors of Treat, Scates, and Blackwell's Statutes. He was held in the highest regard by the profession and public. He was a cousin of Samuel Treat, lately Federal District Judge of the Eastern District of Missouri.

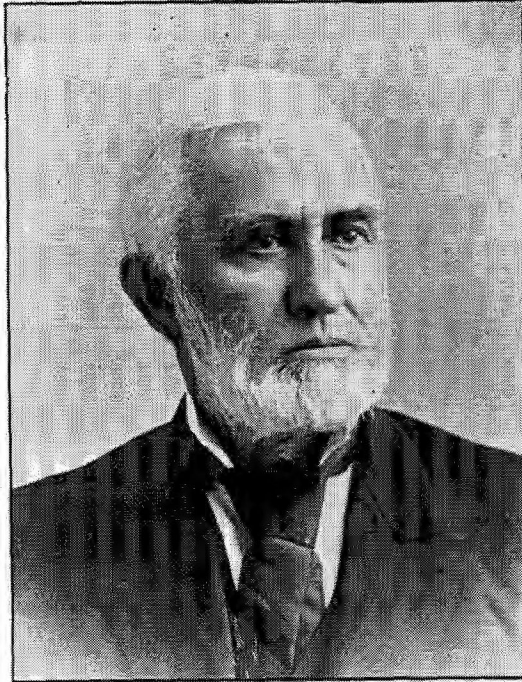
Breese has probably received more universal praise for judicial ability than any other judge of this court. He was born in Oneida County, New York, July 15, 1800. At eighteen years of age

he was graduated at Union College, third rank in a class of sixty-four, among whom were Bishops Alonzo Potter and George W. Doane, and United States Senators A. S. Porter and James A. Bayard. He came to Illinois in 1818, on the invitation of his friend Elias Kent Kane, in whose office he studied law. He was admitted to the bar in 1820, married a sister of William R. Morrison, who is a member of the Inter-state Commerce Commission, became Circuit Attorney and United States District Attorney, published "Reports of the Decisions of the Supreme Court of the



WILLIAM KING McALLISTER.

State of Illinois from 1818 to 1831," became a Lieutenant-Colonel in the "Black Hawk" War, was a Circuit Judge, and a member of the Supreme Court in 1841. He resigned the following year. During this brief term as a member of this court he wrote the opinions in thirty-four of the one hundred and thirty-one opinions rendered by the court, then consisting of nine members. Upon his resignation he was elected to the United States Senate. There he presented resolutions of respect to the memory of Samuel McRoberts, Illinois's deceased Senator, advocated tariff for revenue only, favored annexation of Texas, supported the Mexican War, and fostered canal and railroad construction. He was afterward Speaker of the House of Representatives of Illinois. In 1857 he returned to the Supreme Bench, where he remained till his death, June 28, 1878, making a total service in this court of over twenty-two years. Ten years he was Chief-Justice. Since his



JOHN M. SCOTT.

death the late Hon. Thomas Hoyne has edited and published a manuscript left by him, entitled "The Early History of Illinois, from its discovery by the French in 1673 until its cession to Great Britain in 1763, including the narration of Marquette's discovery of the Mississippi."

In one whose life was so happily varied by professional practice, legislative and judicial duties of the higher order, we expect to find, as we do in Judge Breese, varied learning and rare wisdom. His judicial opinions begin in 2d Scammon and end in

the 88th Illinois, and number about nineteen hundred.

Our honored Chief-Justice Melville Weston Fuller, in an address before the Bar Association of Illinois in 1879, spoke of Judge Breese thus: "His judicial style was graceful, easy, and flowing, sometimes too ornate, but always pleasing, and often enlivened by witty or humorous allusions which, relieving

the argument, did not detract from its solidity." In the case of *Galena and Chicago Union Railroad Co. v. Jacobs*, 20 Ill. 478 (1858), Judge Breese is believed to have originated the doctrine of comparative negligence, which prevails in Illinois, in these words: "The more gross the negligence manifested by the defendant, the less degree of care will be required of the plaintiff to enable him to recover," and "Whenever it shall appear that the plaintiff's negligence is comparatively slight, and that of the defendant gross, he shall

not be deprived of his action."

The most celebrated cause in which he rendered an opinion was doubtless *Munn v. The People*, 69 Ill. 80. His opinion in that case was affirmed by the United States Supreme Court. From this opinion have grown and are growing some of the most important questions in the history of public affairs in this country.

John Dean Caton is one of Illinois's most distinguished judges. He was born March 19, 1812, in Monroe, Orange County, New York. Entirely unaided from a very

tender age, he obtained for himself what was then considered a pretty good education, and was admitted to the bar in Illinois in 1833. He was the second lawyer to practise in Chicago, and the first to begin a suit in the Circuit Court there. Practising law, he earned a reputation which secured his appointment as a member of the Supreme Court, August 20, 1842. Excepting from March to May, 1843, he remained upon the Supreme Bench continuously a period of about twenty-two years, a little over six years of which time he was Chief-Justice. His first opinion was a dissent in *Camden v. McKoy*, 3 Scammon, 437, a very important early Commercial Paper case. His last opinion was in *Livingston v. Wiler*, 32 Ill. 387.

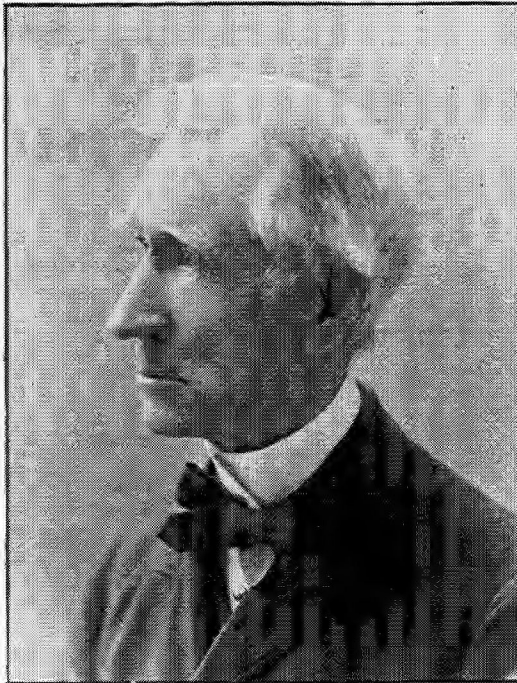
In *Munn v. Burch*, 25 Ill. 35, Judge Caton delivered an interesting opinion, deciding that the holder of a check drawn on a bank having funds of the drawer could sue the bank on the check.

In *Olds v. Cummings*, 31 Ill. 188, he wrote the opinion holding that the *bona fide* purchaser of a note for value, before maturity, though holding the note discharged of defence against it in the hands of the payee, takes the mortgage which secures the note, subject to such defences.

Judge Caton, though not a public speaker, has been eloquent on those few occasions when it was his duty to speak. His professional and judicial career, though long and honorable, is probably only a small part of his varied activity. In a biographical

sketch of him by Robert Fergus it is said: "Viewed in other phases, we find in him the practical and sagacious business man, capable of originating and directing the most complex affairs; founding a vast system of telegraphy; engineering water-works; organizing starch-factories, glass-works, copper-mines, coal-mines, and other enterprises. He is also a country gentleman surrounded

by his flocks and herds; and his ample parks are stocked with deer and elk, whose habits he notes and describes with the trained eye of the naturalist." He has published a volume of his occasional addresses and essays, entitled "Miscellanies." He has travelled extensively and published "A Summer in Norway," and has on other travels written series of letters which have been published in newspapers and periodicals. In 1888-1889 a series of papers written by him appeared in the "Chicago Legal News," on Circuit



BENJAMIN R. SHELDON.

Court scenes, and the Conference-room of the Supreme Court, and other early history connected with the profession in Illinois. He has a home in Chicago and at Ottawa, and is being granted a long enjoyment of the rich fruits of his active career.

We shall now pass to a number of men whose terms in the Supreme Court were more or less brief. James Semple, Richard M. Young, and John M. Robinson (a brother of James F. Robinson, Governor of Kentucky), all deceased, were each by birth Kentuckians and United States Senators from

Illinois, — the latter for ten years. Semple was a member of three Illinois General Assemblies, twice Speaker of the Lower House, also Attorney-General, Brigadier-General in the Black Hawk War, Minister to Columbia, South America, and author of an elaborate unpublished History of Mexico. His son, Eugene Semple, has been Governor of Washington Territory.

Jesse B. Thomas, Jr., grand-nephew of Jesse Burgess Thomas, held various State offices, and was a judge of this court for about two years. He married the daughter of Judge Theophilus W. Smith, and was the father of Jesse B. Thomas, a prominent clergyman.

James Shields, born in County Tyrone, Ireland, in 1810, Auditor of Public Accounts of Illinois, Commissioner of the General Land Office under Polk, Brigadier and Brevetted Major-General in the Mexican War, United States Senator at different times from Illinois, Minnesota, and Missouri, was a judge of this court almost two years.

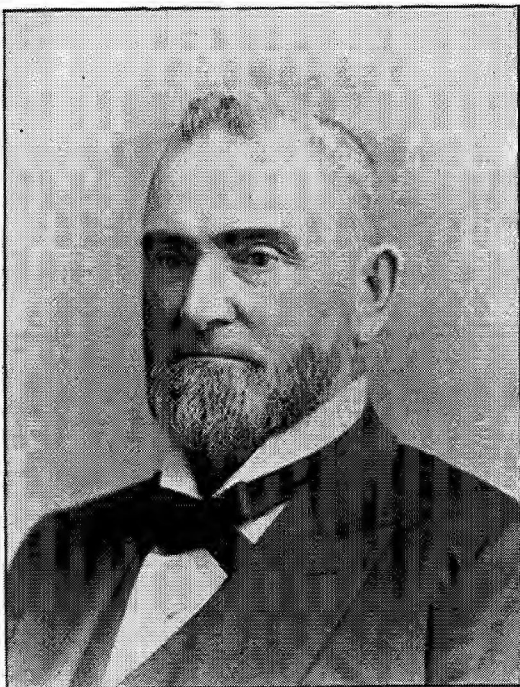
Gustavus Koerner born at Frankfort-on-the-Main, Germany, Nov. 20, 1809, was graduated in law at Heidelberg, and studied American law at Transylvania University. He has been twice a member of the Illinois Legislature, a Presidential Elector, and Lieutenant-Governor. He served upon the Supreme Bench from April, 1845, to December, 1848, when he returned to a large law-practice. He is the author of "Das Deutsche Element in den Vereinigten Staaten, 1815-

1848," now in its second edition, and a number of other pamphlets. He was a Colonel in the late war and Minister to Spain from 1862-1865. He and his son, G. A. Koerner, are engaged in practice together at Belleville, Illinois.

Norman Higgins Purple born at Exeter, New York, March 29, 1808, came to Peoria in 1837, was a Presidential Elector in 1844,

a member of the Constitutional Convention of 1862, and Judge of the Supreme Court from August, 1845, to December, 1848. He edited "Statutes of Illinois relating to Real Estate" in 1849.

Judge Caton in a recent letter says of him: "He was a lawyer of learning, a successful practitioner, and at times eloquent. . . . I often heard it remarked by lawyers who practised before him that he was the finest Circuit Judge who ever presided in the State of Illinois. While we were on the Supreme Bench together, . . . we handed opinions to the clerk



DAMON G. TUNNICLIFF.

for record without reading; previous to that time all opinions were read from the bench before they were handed down, as is still the practice in the Supreme Court of the United States. From that time on the practice was changed, and so far as I know, opinions have been handed to the clerk without the formality of reading them in open court." Judge Purple died in Chicago, August 9, 1863.

William A. Denning and Onias C. Skinner were each judges of this court two years or more, each having been Circuit Judges

and members of the Illinois Legislature. Skinner was a member of the Constitutional Convention of 1870, and, says Chief-Justice Fuller, "gave proofs . . . of marked ability as a jurist."

Lyman Trumbull was a member of this court from Dec. 4, 1848, to July 4, 1853. A sketch and portrait of him appear in this magazine (vol. i. p. 337).

Corydon Beckwith, born in Caledonia County, Vermont, July 24, 1823, came to Illinois in 1853, and was appointed by Gov. Richard Yates a judge of the Supreme Court, and served from Jan. 7, to June, 1864. Thence until his death, August 18, 1890, he practised in Chicago, and was the General Solicitor of the Chicago and Alton Railroad.

Pinkney H. Walker, whose services in this court were as extensive as any in its history, was born in Adair County, Kentucky, June 18, 1815. He studied law with his uncle Cyrus Walker, a prominent lawyer in Illinois. He became a Circuit Judge in 1853, and a member of the Supreme Court in 1858, where he remained twenty-seven years nine months and twenty-eight days, till his death, Feb. 7, 1885. He was Chief-Justice about five and a half years of that time.

Chief-Justice Scholfield in a memorial response said: "Judge Walker's mind was strong and practical, and he was industrious to a degree that I have never seen surpassed. He was thoroughly and incorruptibly honest. . . . His first opinion is reported in the 19th

Volume of Illinois Reports, and his last will probably appear in the 114th volume of that series, making in all ninety-five volumes. . . . Throughout that long period of time he was never absent from his place on the bench during a single term. . . . He was usually the first one to enter the conference-room . . . and the last one to leave it. . . . He never failed to write an opinion in a case assigned

to him, . . . and he . . . very often wrote opinions in cases not assigned to him, to assist and relieve a brother judge. . . . Neither private business nor social enjoyment, not even sickness of friends or family, was allowed to claim his attention at the expense of the business of the court. . . . His life was literally sacrificed to his sense of judicial duty."

He wrote about three thousand opinions, among which was the one in *Swift v. Castle*, 23 Ill. 209. This case is unusual because of the vigorous and elaborate

dissent of Justice Breese, the reply of Chief-Justice Caton thereto, and Justice Breese's rejoinder. In *Carroll v. City of East St. Louis*, 67 Ill. 568, and *Starkweather v. American Bible Society*, 72 Ill. 50, he wrote the opinion of the court in important cases involving the power of foreign corporations to hold land in Illinois.

Charles B. Lawrence, Judge of this court nine years from June, 1864, and Chief-Justice three years of that time, was born in Vergennes, Vermont, Dec. 17, 1820. His father was Judge Ville Lawrence, whose great-



DAVID JEWETT BAKER.

grandfather, John Lawrence, emigrated to Watertown, Massachusetts, in 1636. Charles B. Lawrence was graduated at Union College in 1841, taught school in Alabama, studied law in the office of Alphonso Taft in Cincinnati and Senator Geyer in St. Louis, practised law at Quincy, Illinois, and was a Circuit Judge three years from July, 1861. He wrote the opinion of the Court in *C. & A. R. R. Co. v. The People*, 67 Ill. 11. This opinion was concurred in by the whole court, yet it so offended the Granger element in politics that he was defeated of re-election. He then came to Chicago, where he commanded a large and remunerative practice, and the entire and highest respect of the people till his death, April 9, 1883. His nephew, Charles H. Lawrence, who practised with him after 1873, now practises in Chicago.

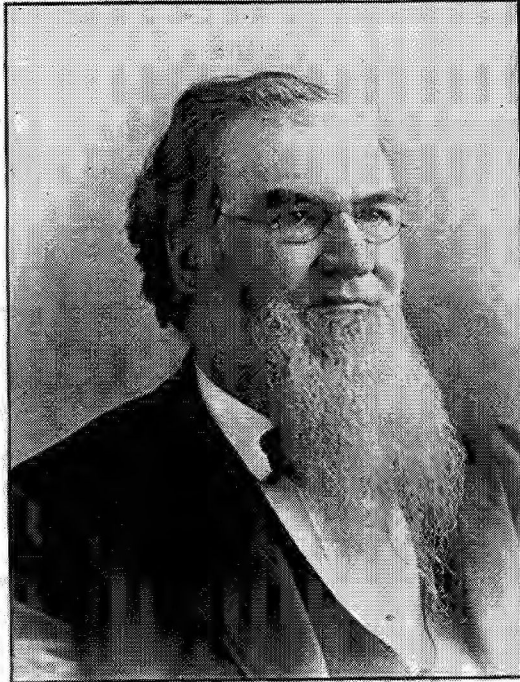
Anthony Thornton, a Kentuckian by birth, received a collegiate education, was a member of the Lower House of the Illinois Legislature and of Congress. He was in the Constitutional Conventions of 1847 and 1862, and a Judge of this court from July, 1870, till his resignation, May, 1873, since which time he has lived at Shelbyville, Illinois, active in the practice of law.

William King McAllister came to Chicago from New York in 1854. He practised law till he was elected to the Supreme Court in 1870. He resigned, Nov. 26, 1875, and immediately became a Judge of the Circuit Court of Cook County, at Chicago, which

office he held till his death, Sept 18, 1888. From June 16, 1879, till he died, he, by selection of the Supreme Court, served as Judge of the Appellate Court of Illinois for the First District. His large number of printed opinions while upon the benches of the Supreme and Appellate Courts have given him high rank for judicial ability.

Thomas A. Moran, his associate on the

Appellate Bench, spoke of him as follows ("Chicago Legal News," vol. xxii. p. 99): "Why is it that, go where you will in this community, among the common people, though they had never perhaps seen the man, they speak of him with reverence and love? . . . I believe there exists between such men as William King McAllister and the great people some imperceptible chord . . . and that it is intuitively felt that such a heart beats in exact time with the great heart of the common people. . . . He loved everything in Nature. He



JOSEPH MEAD BAILEY.

loved his country. . . . He loved society and order. . . . He loved the trees, the flowers, but above all he loved his fellow-men."

Theophilus Lyle Dickey, Judge of this Court from December, 1875, till his death, July 22, 1885, and Chief-Justice one year of that time, was born in Bourbon County, Kentucky, Oct. 3, 1811, of Scotch-Irish ancestry, was graduated at Miami University, Oxford, Ohio, taught school, studied law in the office of Cyrus Walker, organized a company and fought in the Mexican War, was a Circuit Judge, raised a regiment of cavalry

and served in the war of the late rebellion of the Southern States, became Assistant Attorney-General of the United States in 1868, and in 1873 corporation counsel of the city of Chicago.

His dissenting opinion in *Parker v. The People*, 111 Ill. 600, is indicative of his industry, learning, logic, and skilful powers of discussion. Gen. William H. L. Wallace, a prominent lawyer in this State, who came to an early death in the battle of Shiloh, was a son-in-law of Judge Dickey.

The first man born in Illinois who became a Judge of the Supreme Court, was John M. Scott, the son of Samuel and Nancy Biggs Scott, born August 1, 1824, in St. Clair County, a descendant in the paternal line of Irish ancestry. He was educated in the public school and by private instruction, studied law in the office of Hon. William C. Kinney at Belleville, began the practice of law at Bloomington in 1848, was elected Judge of the County Court of McLean County in 1852, served as Circuit Judge as successor of David Davis from 1862 to 1870, and was Judge of the Supreme Court from that time until 1888, when he declined to be a candidate for re-election. He was during that time Chief-Justice of the court for three years. His opinions begin with the 54th and end with the 126th volume of the Illinois Reports. One of his prominent later opinions was that rendered in the case of *Marshall Field v. Levi Z. Leiter*, 118 Ill. 17, a case involving party-wall rights in valuable

property in Chicago. The present Federal Chief-Justice, and Robert Todd Lincoln, Minister to England, were among the attorneys in this case.

While Chief-Justice, Judge Scott conducted the proceedings of the court with a dignity quite worthy the office. His relations with the bar were pleasant. His abilities and character secured him the respect of the people and the profession.

Benjamin R. Sheldon has had a longer judicial career, including his service in the Circuit Court, than any other judge of this tribunal. He was graduated at Williams College, and studied law at Yale. He was Circuit Judge from December, 1848, till July, 1870, and thence till June, 1888, he was a member of this court, and Chief-Justice thereof three years. He declined a re-election. His learning and experience made him a most efficient judicial officer. His intercourse with the profession was dignified



JACOB W. WILKIN.

and friendly. His long and honorable career upon the bench has secured him a respect which makes pleasant his retirement at Rockford from official duty.

John H. Mulkey was a member of this court nine years from June, 1879, and Chief-Justice one year of that time. He declined a re-election. He had enjoyed probably as extensive a practice as any lawyer in Southern Illinois, and had been a Circuit Judge. He was a profound real-estate lawyer. His opinion in *Fort Dearborn Lodge v. Klein*, 115 Ill. 177, discussing the plea of *liberum*

tenementum and incidentally the law of seisin and disseisin, has secured him many compliments. In a number of cases he discussed elaborately the construction of wills. His opinion in *Johnson v. The People*, 113 Ill. 99, shows him to be equally interesting, learned, and successful in dealing with questions in Criminal Law. He is enjoying life at his home at Metropolis, on the bank of the Ohio River, loved by his neighbors, respected by the people of the State, and comforted by a sufficient fortune.

Damon G. Tunnickliff, a Judge of this court, by appointment, from February till June, 1885, the unexpired term of Judge Walker, was born in Herkimer County, New York, August 20, 1829, read law in this State with Judge Walker and Robert S. Blackwell, and has devoted himself exclusively to the practice of law. He was a Presidential Elector in 1868. He is now in practice at Macomb, Illinois.

Judge Tunnickliff is eminently representative of what man has been able to make of himself in Illinois in a life of entire and exclusive devotion to the practice of law.

We have now come to the present bench, which consists of John Scholfield, Alfred M. Craig, David Jewett Baker, Simeon P. Shope, Benjamin D. Magruder, Jacob W. Wilkin, and Joseph Mead Bailey, who were all elected in June, 1888, for a term of nine years.

Judge Scholfield was born in Clark County, Illinois, August 1, 1834, where he has ever since resided. He attended the law school at Louisville, Kentucky, was elected State's Attorney in 1856, a member of the Legislature in 1860 as a Douglas Democrat, a member of the Constitutional Convention of 1870, and a judge of the Supreme Court in June, 1873, which office he has held to the present time. At the end of his present term he will have served upon this bench twenty-four years. Two years he has been Chief-Justice.

In Linder's "Early Bench and Bar of Illinois," it is stated that Judge Breese, speaking of Judge Scholfield about ten years before his elevation to the Supreme Bench,

said: "He is one of the most promising young lawyers in America. I have had a good opportunity of estimating his ability, and know of no lawyer, old or young, that I can place above him." According to the statements of the daily press at the time, which were doubtless true, he was given an opportunity to refuse an appointment as the successor of Morrison R. Waite, Chief-Justice.

Judge Baker was born at Kaskaskia, Randolph County, Illinois, Nov. 20, 1834. His father, David Jewett Baker, came to Illinois in 1819, and became United States District Attorney, United States Senator, and the equal of any contemporary lawyer at the Illinois Bar.

Judge Baker was graduated at Shurtleff College at Upper Alton, Illinois, in 1854, and in 1888 received the degree of LL.D. from that institution. On admission to the bar he began practice at Cairo, where he was an Alderman, City Attorney, and Mayor. He was elected Judge of the Circuit Court in March, 1869, and held that office continuously till his election to the Supreme Court in June, 1888, excepting from July, 1878, till June, 1879, when he filled by appointment an unexpired term in the Supreme Court.

On the organization of the Appellate Court in 1877, Judge Baker was selected as one of the judges of the Appellate Court. He sat continuously in that court, excepting one year, thence until his election to the Supreme Court. He has opinions running through about twenty volumes of the Appellate Court Reports which were frequently adopted by the Supreme Court in full as their own opinion in the case on appeal.

Alfred M. Craig, a Judge of this court since June, 1873, was born in Edgar County, Illinois, Jan. 15, 1831. He was graduated with honor at Knox College, Galesburg, Illinois, was Judge of Knox County, a member of the Constitutional Convention of 1870, and at the time of his election to the Supreme Court a wealthy farmer and lawyer.

Benjamin D. Magruder became a member of this court Nov. 3, 1885. He was born

near Natchez, Mississippi, and was graduated at Yale College, where Justices Brewer and Brown of the United States Supreme Court and Hon. Chauncey Depew were his classmates. He was graduated and was valedictorian of his class at the Law School in New Orleans. He practised some time at Memphis, Tennessee, and came to Chicago about 1861, where he became a Master in Chancery, which position he held till he was elected to the Supreme Court. Judge Magruder has rendered some opinions which have attracted wide attention. He wrote the opinion in *Spies et al. v. The People*. This is one of the celebrated causes of this court. It is popularly known as the Anarchist Case, and occupies two hundred and sixty-six pages of the report.

Jacob W. Wilkin, of Danville, Illinois, a Presidential Elector in 1872, Circuit Judge from June, 1879, till June, 1888, sitting a portion of that time as Judge of the Appellate Court, and mentioned by the press as a Senatorial possibility at the writing of this article, was elected a judge of this court in June, 1888.

Simeon P. Shope, of Lewistown, Illinois, a member of the Lower House of the Illinois Legislature in 1862 and 1864, and a Circuit Judge about two years, has been a member of this court since June 1, 1885. He has written the opinion of the court in several important real-estate cases, and has been Chief-Justice one year.

Judge Bailey, elected Judge of the Supreme Court June 4, 1888, was born at Middlebury, Vermont, June 22, 1833; was graduated at the University of Rochester, New York, in 1854; began practice at Freeport, Illinois, in 1856; was twice a member of the Lower House of the Illinois Legislature, a Presidential Elector in 1872, Judge of Circuit Court from August, 1877, to June, 1888, sitting by selection of the Supreme Court as Judge of the Appellate Court at Chicago during that time. His opinions in the Appellate Court Reports have been quite widely cited.

While practising at the bar and attorney for an Insurance Company, he wrote a book upon that subject, largely for the information of local counsel for the company. He was a trustee for the old University of Chicago, and is now trustee of the new University of that name, supported by the magnificent gift of John D. Rockefeller and the citizens of Chicago. Judge Bailey gives some instruction each year in the Chicago College of Law. He has received the degree of LL.D. from the University of Chicago and from the Rochester University. Besides these duties in the line of his profession, he has been a man of affairs and commercial enterprise.

The first official reporter of this court was Sidney Breese. He has been succeeded by Jonathan Young Scammon, Charles Gilman, Ebenezer Peck, and Norman L. Freeman.

Hon. Norman L. Freeman, when appointed at the April term, 1863, was a prominent and able practising lawyer. He compiled an early Illinois digest, and was the author of a work on Pleading and Practice in Illinois. His reporting begins with 31 Illinois, and he at the writing of this article has issued the last advanced sheet of 133 Illinois Reports.

In a preface to 47 Illinois, Mr. Freeman in 1870 called the attention of the profession to the evil of the indiscriminate multiplication of reports of decisions, and advised that the court be given power to determine what opinions should be reported, in order that the number of volumes might be decreased and their value to the profession enhanced. Mr. Freeman stated that the number of cases reported in the Illinois Supreme Court in 1839 was seventy, and in 1854 one hundred and fifty. The number reported in the year, Jan. 21, 1889, to Jan. 21, 1890, is two hundred and ninety-five. This last number would be much larger but for the Appellate Court, established in 1877, where many cases in which opinions are written stop, which otherwise would appear in the Supreme Court.