

# The Illinois Supreme Court in the State Capitol 1878 – 1907

By John A. Lupton

In January 1876, Myra Bradwell's newspaper, the *Chicago Legal News*, observed that when a new county courthouse was completed, the clerks and other officers "generally succeed in having their offices finished before the court-rooms, and as a consequence are comfortably located in the new courthouse long before the judges." This pattern continued with the new Capitol Building in Springfield. The editorial lamented the fact that the executive and legislative branches had already moved into the new state house. The Supreme Court of Illinois, however, remained in "its old quarters, although they are too small to properly accommodate the court and its officers."



Since statehood, the Supreme Court of Illinois had generally convened at the State Capitol Building, whether that was in Kaskaskia, Vandalia, or Springfield. After the 1848 Constitution took effect, the Court began holding terms in Mt. Vernon and Ottawa in addition to Springfield. The state appropriated funds in the 1850s to build Supreme Court Buildings in both Mt. Vernon and Ottawa, while the Court continued to meet at the Old Capitol in Springfield. Although accommodations were secure in two venues, the Springfield courtroom became problematic. As the caseload grew, the court room at the Old Capitol became too small. The Court moved into the Senate chamber for two terms in 1871 and 1872, and then met in a building on Fifth Street from 1874 through 1877 because the Old Capitol was being converted into the Sangamon County courthouse. The Court even met for part of one term in a new courtroom specifically built for it in the Cook County courthouse in 1870 and planned to meet there in October 1871, but the Chicago Fire destroyed the courthouse. A new and spacious courtroom in the new state house resolved many problems.



*The Illinois Supreme Court chambers as they looked when the court was housed inside the Illinois statehouse.*

*Photo courtesy the Abraham Lincoln Presidential Library.*

At 2:00 pm on January 1, 1878, two years after Myra Bradwell's newspaper complained about the lack of respect for the Court and one year after the legislature started meeting in the new capitol, Chief Justice John Scholfield opened the court's first term in the new building's Supreme Court room. The full court of seven justices entered orders in five cases and adjourned for the day as January 1 was considered a "general holiday." There were no ceremonies to mark the occasion, and the local newspapers only reported on the cases being considered. The Supreme Court continued to transact its business managing 178 cases for the rest of the January term with no fanfare.

Despite the lack of pomp at the first term, the new courtroom was grand. In fact, it was almost too grand. Myra Bradwell said it looked "more like the palace of an Eastern king than the court room of a quiet and dignified tribunal in republican America." The Bloomington *Appeal* said "it undoubtedly is the most magnificent room we have ever seen, and to our mind is inappropriate for a court room." Regardless of the perceived ostentatious ornamentation, the Supreme Court transacted its business regularly in the court room twice a year—in the January and June terms—from 1878 to 1897. The Supreme Court remained a "court on wheels" traveling among Springfield, Mt. Vernon, and Ottawa for terms.

Since Illinois had a representative Supreme Court—seven justices from seven geographical districts across the state—significant travel was still necessary for most members of the Court to transact business in Springfield. During the terms, which lasted several weeks, justices would stay in apartments in the basement (now the first floor) of the Capitol Building. There were seven rooms, complete with beds and dressers for the justices below the west wing. The justices entered the residential area through the eastern basement entrance. There was also a stairway that led from the apartments to the Court's conference room, which then connected to the court room itself.

Twenty-five justices sat at the Capitol's courtroom over the course of their tenure there. Two of them,

Sidney Breese and Pinkney Walker, were justices when Abraham Lincoln practiced law in Springfield. Other justices had practiced law with or against Lincoln, including T. Lyle Dickey, Simeon Shope, and John Scott. Lincoln and Scott opposed each other in a case in Bloomington. The next morning, Scott discovered he lost the case. When Lincoln asked how the case went, Scott replied that "it's gone to hell." Lincoln responded, "oh well, then you'll see it again." Other prominent jurists included John Scholfield, who was considered for Chief Justice of United States in 1888 (the position eventually filled by Melville Fuller of Illinois), and James Cartwright, who served for nearly thirty years and authored 1,700 opinions.

In 1897, the Court consolidated its location at Springfield, ending the practice of the court on wheels. From 1897 to 1907, five annual court terms were held in the Capitol Building. Capping a decades-old battle to consolidate in Springfield, the Court marked the occasion at the beginning of the October 1897 term with speeches and gratitude. The end of the shuffling papers and justices among three cities allowed the Court to concentrate more fully on the cases before them and to adjudicate law in a much more efficient manner.

One significant case heard by the Court in the Capitol Building in 1884 was *Blake v. People for use of Caldwell*, which involved the protection of agricultural lands against surplus water. The Pike County Court had rejected landowner M. M. Blake's challenge to his assessment for Sny Island Levee repairs, alleging as unconstitutional the state's 1879 Drainage Act. On appeal to the Supreme Court, Blake's attorneys contended that the drainage act embraced "more than one subject. Drains and ditches constitute a different subject from that of a levee." The Illinois Supreme Court rejected Blake's argument in upholding the Pike County judgment, confirming the constitutionality of the 1879 law and approving the organization of sanitary districts within the state.

One of the most important cases that the Supreme Court heard during their thirty-year tenure at the Capitol was *In Re Day*, which declared a

recently passed law to be unconstitutional and also confirmed the separation of powers clause in the Illinois Constitution. The General Assembly passed a law in 1899 to allow applicants who possessed a degree from a law school to be admitted to the bar without having to be examined by a court. Henry Day and others applied for their law licenses based on this law. The Illinois Supreme Court ruled that Day was not entitled to his license without a proper examination. The Court further ruled that the licensing of attorneys was a judicial act, not legislative, because lawyers were officers of the court.

While in the new state house, the Supreme Court altered one of Abraham Lincoln's most famous cases. Lincoln successfully argued in 1855, when the Supreme Court met at the Old State Capitol, that the Illinois Central Railroad was exempt from county taxes. Lincoln's victory ensured the success of the Illinois Central, saving it from millions of dollars in taxes. In 1887, the city of Decatur passed an ordinance to pave East Wood Street, paying for it with a special assessment of property that abutted the street. The Illinois Central Railroad's property was part of the assessment, but the company objected to the tax based on Lincoln's 1855 case and on its 1851 legislative charter, which exempted the railroad from "all taxation of any kind." After the Macon County Court ruled for the City, the Railroad appealed to the Illinois Supreme Court. Citing an earlier case, the Court found "that exemption from taxation does not exempt from special assessments" in affirming the lower court's judgment. The Court added that the Railroad property value will increase because of a city improvement. The Illinois Central appealed the case to the U.S. Supreme Court, which affirmed the Illinois Supreme Court's decision.<sup>10</sup>

Another case, *Harding v. Harding*, in 1899, concerned George F. Harding, a wealthy real estate owner in Chicago. Harding's wife Adelaide had successfully petitioned the Cook County Circuit Court for separate maintenance. The two would remain

married, but live apart, with George Harding paying \$6,400 a year to Adelaide Harding. George Harding appealed the case to the Illinois Appellate Court, which affirmed the judgment, and George Harding appealed to the Illinois Supreme Court. He and his wife disagreed over the full value of his holdings. He argued that while he had significant assets, he also had significant debt, and these factors should have been taken into consideration when affixing

the amount of maintenance. The Supreme Court affirmed the judgment concerning maintenance but reduced the annual amount to \$3,600. One of George and Adelaide Harding's children was George F. Harding Jr., who collected arms and armory, which was eventually transferred to the Art Institute of Chicago in the 1980s, nearly 50 years after Harding Jr. died.

From 1878 to 1907, the Supreme Court expressed opinions from the Illinois Capitol Building that partially

filled seventy-nine volumes of the *Illinois Reports* and completely filled sixty-four volumes of the *Illinois Reports*. The cases concerned important constitutional issues as well as simple debt cases that not only had an impact on the involved litigants, but all Illinoisans as well. After thirty years of holding court in the capitol, the Supreme Court moved into its own building in February 1908, across the street from the Capitol Building that it once called home. 

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