The Court Archive:
Changing Membership of the Court

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December 2023

For the past 153 years there have been seven justices sitting on the Illinois Supreme Court, but it took more than a half-century of experimentation to achieve this stability.

When Illinois became a state in 1818, its first constitution called for a Supreme Court composed of four justices to serve until 1824, after which time they could be reappointed or replaced. After that point, justices served an indefinite term, so long as they demonstrated "good behavior." During this period, justices were not elected by the people; instead, they were appointed by the General Assembly. This practice was consistent with other states at the time. Prior to 1832, every state selected judges through either gubernatorial or legislative appointment.

When political parties became fully formed in the 1830s, Whigs controlled the Illinois Supreme court. Two controversial opinions (*Field v. People ex rel. McClernand* and *Spragins v. Houghton*) angered the Democrat majority in the legislature. They responded by passing the Judiciary Act of 1841, which added five new justices to the Court, bringing the number to nine. The Democrat majority in the legislature appointed five members of their own party, including Stephen A. Douglas, to the state's highest court, giving them a clear 6-3 majority on the Court.

By the mid-1840s, states began moving away from judicial appointments in favor of popular elections. Illinois's Constitution of 1848 reflected this shift. The new constitution now called for three justices, who would serve nine-year terms and could stand for competitive reelection. The Constitution divided the state into three grand divisions (Northern, Central, and Southern) and called for each region to elect their own justice, establishing the tradition of geographic representation on the Illinois Supreme Court.

The Constitution of 1870 again changed the number of justices, this time settling on seven justices, each serving nine-year terms. Geographic representation remained, but now the state was divided into seven judicial districts, each electing a justice.

Though the number of justices on the Illinois Supreme Court has remained at seven since 1870, the Judicial Article of 1964 brought other changes. Candidates running for a seat on the Supreme Court were required to declare a political party and terms were extended to ten years.

Instead of re-election, judges ran for retention at the end of their initial term, an innovation first implemented by Missouri in 1940, and spared judges from campaigning against an opponent, while also giving voters the power to remove judges if necessary.

The Constitution of 1970 largely adopted the Judicial Article of 1964, and aside from one round of judicial redistricting in 2022, the system has remained largely unchanged.

Today, every state has at least one Supreme Court or court of last resort (Oklahoma and Texas have two courts of last resort), with the number of justices varying between five and nine. Illinois is one of 28 states (54 percent) with seven members on their Supreme Court. Seventeen states (33 percent) have five members on their Supreme Court, while seven states (13 percent) have nine members, mirroring the number of justices on the United States Supreme Court.