The Court Archive:
Substitute Judges

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The practice of lawyers substituting for judges was common in early Illinois history. Since a county circuit court met for only two weeks annually on average, it was necessary that cases be dispensed with in an efficient manner. When a judge had to be called away because of illness or a family illness, some parties preferred to have a practicing attorney sit as the judge rather than continuing the case until the next term.

The best example of this practice comes with Abraham Lincoln and the Eighth Judicial Circuit, in which circuit judge David Davis traveled with the state's attorney and a cadre of lawyers among the fourteen counties in the circuit. At times, Judge Davis took ill and recuperated in his room. Rather than continue cases until the next term of court, Davis would appoint one of the members of the bar to sit as the judge for a few cases or for a few days.

Abraham Lincoln sat as a judge in at least 321 cases from 1850 to 1859 in Champaign, DeWitt, Macon, Sangamon, Logan, and Vermilion Counties. Lincoln was not the only lawyer to be named to sit as judge. Clinton attorney Clifton Moore and Danville attorney Oliver Davis frequently sat as judges as well.

By the 1870s, the legal system had matured significantly as Illinois grew into one of the largest states in the country. The practice of attorneys sitting for judges became a relic of a past age but still continued.

The Illinois Supreme Court reversed a series of cases with lawyers sitting as judges: *Hoagland v. Creed*, 81 Ill. 506 (1876); *Bishop v. Nelson*, 83 Ill. 495 (1876); and *Cobb v. People*, 84 Ill. 511 (1877). However, the case of *Meredith v. People*, 84 Ill. 479 (1877) stood out as one of the more egregious examples. During two days of arguments to the jury in the murder case against Major Meredith, the judge presided in a different trial and left one lawyer the first day and a second lawyer the second day to preside in the *Meredith* case. The jury found Meredith guilty of murder, and he was sentenced to be hanged.

Meredith appealed the case to the Illinois Supreme Court arguing that while his attorney gave consent for a substitute judge, he did not. In writing for the Court, Justice John M. Scott reversed

the judgment, noting that consent is irrelevant. The Court came down hard on the practice of lawyers acting as judges, “it is not allowable in a trial involving only mere property interests, much less in a case where the life of a human being depends on the issue.” The Court was particularly unimpressed with the state’s argument that the judge was in the building. "It makes no difference that the judge was in another part of the same building. It is no less error than if he had been in another county."

In support of its decision, the Court emphasized the principle expressed in the *Hoagland* case, that judges in Illinois must be qualified and elected by the people to exercise judicial authority. The *Meredith* capital case finally put an end to attorneys substituting as judges as the Court marked the end of the era of a more informal frontier justice and the birth of a new era of professionalism and adherence to stricter standards in and out of the courtroom.