

## Samuel H. Treat 1841-1855

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When the Illinois General Assembly reorganized the state's judiciary in 1841, legislators chose Samuel H. Treat as one of the five additional Supreme Court justices.<sup>1</sup> He would become one of the longest-serving jurists in the history of Illinois.

Born near Plainfield, Otsego County, New York, to Samuel and Elcy Tracy Treat on June 21, 1811, Treat obtained his early education in area schools, worked on his father's farm, and at age eighteen began the study of law at Richfield, New York, under Judge Holdridge, "a lawyer of eminence in that locality."<sup>2</sup>



After his admission to the New York bar, Treat came to Sangamon County, Illinois, in 1834 "traveling most of the way on foot." In Springfield, he formed a partnership with George Forquer, a former Illinois Secretary of State and Attorney General. In 1837, Treat married Ann Elizabeth Bennett, a native of Jefferson County, Virginia.<sup>3</sup> Treat's success at the Sangamon County bar was so rapid that in 1839 Governor Thomas Carlin appointed him to fill a judicial vacancy on the Eighth Judicial Circuit in east-central Illinois. The following year he won legislative election to the position.<sup>4</sup>

With the 1841 Supreme Court reorganization, Treat became a Supreme Court Justice, while retaining his circuit responsibility. The nine Supreme Court colleagues met twice each year in Springfield. The July term was frequently brief, perhaps the result of hot, humid central Illinois' summers, explained historian Robert W. Johannsen. The December term usually lasted until February, "thus affording the judges opportunity to participate in the political discussions of the state legislature."<sup>5</sup>

Presiding in an 1842 circuit court case, Treat showed an increasing judicial tendency toward granting blacks "full legal protection and justice." Historian N. Dwight Harris reported the case of an Arkansas resident who demanded the return of James Foster, a black man who had been living in Springfield for two or three years, as his slave. Judge Treat required that the "supposed master" provide disinterested witnesses to prove that the "the negro was his property." Harris considered the ruling "a step in the right direction . . . the practice of kidnapping Negroes had become so prevalent that the most stringent regulations were needed to protect the free blacks in Illinois."<sup>6</sup>

Springfield attorney and future U.S. President Abraham Lincoln handled more than nine hundred circuit court cases and 167 Supreme Court arguments before Justice Treat.<sup>7</sup> In the 1852 *McAtee v. Enyert* case,<sup>8</sup> Lincoln successfully represented William D. Enyert, who had sold ninety acres of land to Smith McAtee for \$350, while the land was actually worth \$1,000. In 1847, after twenty-two-year-old Enyert had been indicted for stealing a pair of shoes, neighbor McAtee pressured Enyert to sell him the land and then to flee the area to avoid imprisonment.<sup>9</sup> In the court case, Enyert contended that his former friend "used terror and intoxication to persuade him to take fraudulent advantage

of him.” Judge David Davis of the circuit court in Sangamon County voided the sale and ordered the land returned to Enyert.<sup>10</sup>

“There is one feature of the case which demands especial notice,” Justice Treat wrote in the Supreme Court opinion affirming the circuit court decree. Treat admonished McAtee for deliberately advising Enyert “to evade the demands of public justice, and as a result, “deserves no favor at the hands of a court of equity.” Treat concluded that it “is the duty of every citizen to aid in the execution of the laws, and in no contingency is he at liberty to encourage their violation, or assist offenders to escape detection and punishment.”<sup>11</sup>

Treat recalled a morning when Lincoln visited his office and joined the judge in a game of chess. “The two were enthusiastic chess-players,” reported Lincoln biographer Jesse W. Weik:

They were soon deeply absorbed, nor did they realize how near it was to the noon hour until one of Lincoln’s boys came running with a message from his mother announcing dinner at the Lincoln home, a few steps away. Lincoln promised to come at once and the boy left; but the game was not entirely out; yet so near the end the players, confident that they would finish in a few moments, lingered a while. Meanwhile almost a half an hour had passed. Presently the boy returned with a second and more urgent call for dinner; but so deeply engrossed in the game were the two players they apparently failed to notice his arrival. This was more than the little fellow could stand; so that, angered at their inattention, he moved nearer, lifted his foot, and deliberately kicked board, chessmen, and all into the air. “It was one of the most abrupt, if not brazen, things I ever saw,” said

Treat, “but the surprising thing was its effect on Lincoln. Instead of the animated scene between an irate father and an impudent youth which I expected, Mr. Lincoln without a word of reproof calmly arose, took the boy by the hand, and started for dinner. Reaching the door he turned, smiled good-naturedly, and exclaimed, “Well, Judge, I reckon we’ll have to finish this game some other time.”<sup>12</sup>

Throughout Treat’s fourteen years on the Illinois Supreme Court, he maintained a favorable reputation “for promptness in his decisions and was generally liked by the bar and the public,” reported historian Frederic B. Crossley.<sup>13</sup> “He was a sterling Democrat, and as true as steel to that great and noble old party,” added attorney Usher Linder, “but he never suffered his politics to mingle in the slightest degree with his judicial opinions or deliberations.” Author John M. Palmer described Treat as an able jurist who wrote brief, clear opinions. “It was said of him that he could be depended upon to try issues of fact better than the most intelligent jury.”<sup>14</sup>

Under the new Illinois Constitution of 1848, Treat won election to one of three Supreme Court positions. The three justices needed to stagger their terms and drew lots for the nine-, six-, and three-year terms. Treat won the nine-year term and became the Chief Justice.<sup>15</sup> In 1855, President Franklin Pierce appointed Treat as judge of the newly created U.S. District Court for the Southern District of Illinois. With outbreak of the Civil War, Treat appointed a commission that determined membership in the secret anti-war Knights of the Golden Circle did not constitute treason to the United States.<sup>16</sup>

Treat held the federal position for thirty-two years. At age seventy-six, he died on March 27, 1887 at his Springfield residence. Following services at St. Paul’s Episcopal

Church, where he had been a founding member and longtime vestryman, Treat was interred beside his wife in Oak Ridge Cemetery.<sup>17</sup>

In 2008, the Illinois Bar Foundation and the Abraham Lincoln Association sponsored the installation of an obelisk monument at the Treat gravesite.

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Samuel H. Treat Papers: Abraham Lincoln Presidential Library, Springfield, Ill.

<sup>1</sup> Robert W. Johannsen, *Stephen A. Douglas* (New York: Oxford University Press, 1973), 96.

<sup>2</sup> *Portrait and Biographical Album of Sangamon County, Illinois* (Chicago: Chapman Bros., 1891), 633.

<sup>3</sup> *United States Biographical Dictionary and Portrait Gallery of Eminent and Self-Made Men, Illinois Volume* (Chicago: American Biographical Pub. Co., 1883), 775; Newton Bateman and Paul Selby, eds., *Historical Encyclopedia of Illinois* (Chicago: Munsell, 1900), 528; Daniel W. Stowell, *Samuel H. Treat; Prairie Justice* (Springfield: Illinois Historic Preservation Agency, 2005), 4.

<sup>4</sup> Douglas L. Wilson and Rodney O. Davis, eds., *Herndon's Informants; Letters, Interviews, and Statements about Abraham Lincoln* (Urbana: University of Illinois Press, 1998), 773.

<sup>5</sup> Johannsen, 100.

<sup>6</sup> N. Dwight Harris, *The History of Negro Servitude in Illinois and of the Slavery Agitation in That State 1719-1864* (1904, rpt. Ann Arbor, MI.: University Microfilms, 1968), 109-10.

<sup>7</sup> Daniel W. Stowell, et al., eds., *The Papers of Abraham Lincoln; Legal Documents and Cases*, 4 vols. (Charlottesville: University of Virginia Press, 2008), 4: 382; David Herbert Donald, *Lincoln* (New York: Simon & Schuster, 1995), 146;

<sup>8</sup> *McAtee v. Enyart*, 13 Ill. 242 (1852).

<sup>9</sup> Stowell, *Samuel H. Treat*, 20-21.

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<sup>10</sup> Stowell, *The Papers of Abraham Lincoln*, 2: 106-130.

<sup>11</sup> *McAtee v. Enyart*, 13 Ill. 242 (1852).

<sup>12</sup> Wilson and Davis, 725-26.

<sup>13</sup> Frederic B. Crossley, *Courts and Lawyers of Illinois* (Chicago: American Historical Society, 1916), 329.

<sup>14</sup> Usher F. Linder, *Reminiscences of the Early Bench and Bar of Illinois* (Chicago: Chicago Legal News Co., 1879), 388; Palmer, 35.

<sup>15</sup> Stowell, *Samuel H. Treat*, 13.

<sup>16</sup> Arthur Charles Cole, *The Era of the Civil War, 1848-1870* (Urbana: University of Illinois Press, 1987), 308-09.

<sup>17</sup> Palmer, 34-35; Susan Krause and Daniel W. Stowell, *Judging Lincoln; The Bench in Lincoln's Illinois* (Springfield: Illinois Historic Preservation Agency, 2008), 66.