

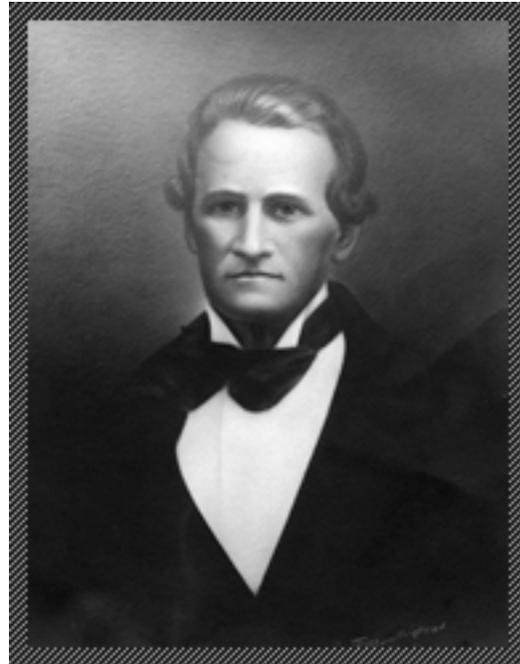
Thomas C. Browne 1818-1848

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A native of Kentucky, Thomas C. Browne was born about 1792. After studying law and gaining admittance to the bar in his home state, he settled in Shawneetown, Illinois Territory and opened a practice in 1812. He soon became interested in politics, “chiefly in an effort to obtain office,” according to historian Frederic B. Crossley.¹

Within two years of his arrival, Browne won election as Gallatin County representative in the second territorial legislature. In 1815, Governor Ninian Edwards appointed Browne as prosecuting attorney from his district, and in the third territorial legislature he became a member of the council representing Gallatin County.²

Upon organization of Illinois state government in 1818, the first Illinois General Assembly elected Browne as one of three associate justices of the Supreme Court. “A good judge on account of his integrity of character and his valuable practical sense in all matters of business,” wrote John M. Scott.³ In the 1822 gubernatorial election, the question of slavery was the primary issue as Illinoisans contemplated a new constitution to legalize slavery. Both Browne and Chief Justice Joseph Philips became pro-slavery



gubernatorial candidates. Together they garnered 59 percent of the vote but lost to the anti-slavery candidate Edward Coles.

The first General Assembly stipulated that the Illinois Supreme Court would be reorganized in 1824. When the Illinois Supreme Court was reorganized, the legislature again appointed Browne as a Supreme Court justice. A contemporary had described Browne as “corpulent as Falstaff, vain, coarse, and effusive,” but credited Browne as “a good lawyer and a capable judge.”⁴ Illinois attorney and later Chief Justice John Dean Caton recalled Browne to be an attentive listener who “would never express his opinion, especially in an important case, until he had heard all that could be said on either side by other members of the court.”⁵ In 1841, after the legislature divided Illinois into nine circuits, each justice on the expanded Supreme Court held court in one of the circuits. Browne became responsible for the Sixth Judicial Circuit in northwestern Illinois. As a result of this appointment, Browne moved more than 400 miles from Shawneetown to Galena.⁶

He was among the guests at the 1842 Springfield wedding of fellow attorney Abraham Lincoln to Mary Todd. When the groom promised, “With this ring I thee wed, and with all my worldly goods I thee endow,” the unrefined Browne, who perhaps never before witnessed such an impressive ceremony, reportedly blurted loudly, “Lord A’mighty, Lincoln, the law fixes that!” Another guest recalled the incident as “one of the funiest things to have witnessed imaginable — No description on paper can possibly do it justice.”⁷

In 1843, Browne became the subject of the state’s second attempt to impeach a Supreme Court justice. Four members of the bar in Galena petitioned the House of

Representatives charging Browne “for want of capacity to discharge the duties of his office,” also described as “general incompetency.”⁸ But, according to Scott, “men of all political views rallied to his support. The newspapers attributed the attempt to a personal grudge between several members of the Galena bar and Joseph P. Hoge, Browne’s son-in-law. Judge Browne was a pronounced Whig, but he found as many friends among the democratic members of the Legislature as among the members of his own political faith.” Abraham Lincoln helped to defend Browne during the proceedings in the Illinois House. The impeachment attempt failed by a nearly unanimous vote and never went to the Senate for trial.⁹

While Browne did not author many opinions during his long tenure as a Supreme Court justice, he wrote several important ones on debt collection, a very important legal issue in a money-scarce society. In the December 1841 term, Browne delivered the Supreme Court opinion in *Nichols v. Ruckells*. After the Sangamon County Circuit Court upheld a justice of the peace decision in favor of the defendant, Samuel Ruckells, John Nichols retained Springfield attorney Abraham Lincoln for the Supreme Court appeal. Affirming the circuit court, Browne ruled that the justice of the peace acted within the legislative acts of 1827 and 1833, limiting his judgment to no more than \$100. “We are of opinion,” Browne wrote, “the justice of the peace may render a judgment for the defendant, for a sum less than one hundred dollars, though the account of the defendant may originally amount to more than that sum. His ‘defense’ covers only a sum within the jurisdiction of a justice of the peace, and we see nothing to prevent him from rendering a judgment accordingly. The law abhors a multiplicity of suits, and by this mode of proceeding it will unquestionably be avoided.”¹⁰

In a circuit court case in Jo Daviess County, Daniel Harris, the losing party in the case, had purposefully consented to a nonsuit. Harris then wished to appeal the case to the Illinois Supreme Court. Browne refused to sign the bill of exceptions because of the voluntary nonsuit. Harris brought a mandamus suit in the Illinois Supreme Court against Justice Browne to force him to sign the bill of exceptions, but in a per curiam decision, the justices agreed with Browne, again represented by Abraham Lincoln, noting that the losing party “having voluntarily gone out of court, cannot call upon this court to reverse a judgment, which was entered at his own solicitation.”¹¹

Browne served continuously on the Supreme Court until 1848, when a new state constitution reduced the number of justices from nine to three. Browne served on the Supreme Court longer than any other justice in Illinois history. During that thirty-year tenure, “he maintained himself in office,” according to Crossley, “through his political influence with members of the Legislature and was at no time popular with the people.”¹² Judge Browne wrote at least forty-three opinions—“plain, common-sense statements,” Scott reported. “Especially when questions of equal civil rights before the law were involved, Judge Browne always maintained the rights of all persons whether white or black to the enjoyment of these inalienable privileges.”¹³

In the later years of his term, Browne resided in Galena, then in 1853 moved with his son-in-law Hoge, to San Francisco, California. Browne died there at the age of seventy in November 1862. He was originally interred at Laurel Hill Cemetery but moved to Cypress Lawn Cemetery in 1946.¹⁴

¹ Frederic B. Crossley, *Courts and Lawyers of Illinois* (Chicago: American Historical Society, 1916), 184; *San Francisco Cemetery Records, 1848-1863* (Daughters of the American Revolution, Tamalpais Chapter, 1938), found at www.sfgenealogy.com/sf/sfcem.htm; Daniel W. Stowell, et al., eds., *The Papers of*

Abraham Lincoln: Legal Documents and Cases, 4 vols. (Charlottesville: University of Virginia Press, 2008) 4: 337.

² John M. Palmer, ed., *The Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 855; John M. Scott, *Supreme Court of Illinois, 1818, Its First Judges and Lawyers* (Bloomington, IL: John M. Scott, 1896), 77-78.

³ Scott, 80.

⁴ Jesse W. Weik, *The Real Lincoln, A Portrait* (Boston: Houghton Mifflin, 1922), 62. Browne is similarly described in General Usher F. Linder, *Reminiscences of the Early Bench and Bar of Illinois*, (Chicago: Chicago Legal News Co., 1879), 73.

⁵ John Dean Caton, *Early Bench and Bar of Illinois*, (Chicago: Chicago Legal News Co., 1893), 174.

⁶ Douglas L. Wilson and Rodney O. Davis, eds., *Herndon's Informants; Letters, Interviews, and Statements about Abraham Lincoln* (Urbana: University of Illinois Press, 1998), 391; Martha L. Benner and Cullom Davis et al., eds., *The Law Practice of Abraham Lincoln: Complete Documentary Edition*, 2d edition (Springfield: Illinois Historic Preservation Agency, 2009), <http://www.lawpracticeofabrahamlincoln.org>, hereafter cited as *LPAL*.

⁷ Weik, 62; Wilson and Davis, 665.

⁸ Newton Bateman and Paul Selby, *Historical Encyclopedia of Illinois* (Chicago: Munsell, 1900), 63; Crossley, 185.

⁹ *Sangamo Journal* (Springfield, IL), 6 January 1843; *LPAL*; Scott, 81; Bateman and Selby, 63.

¹⁰ *Nichols v. Ruckells*, 4 Ill. (3 Scammon) 298 (1841); Susan Krause and Daniel W. Stowell, *Judging Lincoln; The Bench in Lincoln's Illinois*, (2002, rev. ed., Springfield: Illinois Historic Preservation Agency, 2008), 10.

¹¹ *People ex rel. Harris et al. v. Browne*, 8 Ill. (3 Gilman) 87 (1846).

¹² Crossley, 185.

¹³ Scott, 87, 98, 99.

¹⁴ *San Francisco Cemetery Records*.