

## T. Lyle Dickey 1875-1885

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Theophilus Lyle Dickey, born on October 2, 1811, in Paris, Bourbon County, Kentucky, was the son of Presbyterian minister James Henry Dickey, and his wife, Mary DePew Dickey. The family moved to Ross County, Ohio, where Mary died. Young Dickey then returned to Kentucky, residing on his grandmother's plantation. He attended schools in Ohio and Kentucky, studying Latin and mathematics at an academy, then graduated from Miami University in 1831.<sup>1</sup>



On December 6 of that year, at the age of twenty, Dickey married Juliet Evans, daughter of an area farmer.<sup>2</sup> The couple taught school for several years in Lebanon, Ohio, and Millersburg, Kentucky,<sup>3</sup> and became the parents of seven children. In the winter of 1834, the family moved to Macomb, Illinois, where he intended to farm. There he met Judge Cyrus H. Walker, uncle of future Illinois Supreme Court justice Pinkney H. Walker, who persuaded Dickey instead to study law.<sup>4</sup> Admitted to the bar in 1835, he practiced law in Macomb for nearly two years before the family moved to Rushville, where in addition to his law firm, he edited a Whig newspaper and speculated in real estate.<sup>5</sup>

“Overwhelmed with debt” from the Panic of 1837, the Dickeys moved to Ottawa in 1839, and he again practiced law and encouraged students in his office.<sup>6</sup> “You must know what the law is,” as former pupil Judge Burton C. Cook later recalled Dickey’s instruction, “and you must be able to render a reason.”<sup>7</sup>

In the first murder trial in Kendall County, Dickey defended Ansel Rider, a Georgetown carpenter who, in the process of arrest at his home for injuring a man during a tavern altercation, had shot to death another man, Charles McNeil. “McNeil was pretty full of whiskey when he arrived on the scene,” recalled one witness, “making considerable noise and calling the posse a lot of cowards, and boasting that he could arrest Rider alone.” Dickey, who intended to call the prisoner’s seventeen-year-old son as a witness in his father’s defense, took the boy to his Ottawa home, placed him in school there, and rehearsed his testimony and cross-examination.

Aware that several jurors “had decided opinions of their own as to the extent of man’s right to defend his own home and fireside against armed invasion by a howling mob,” Dickey presented a strong defense. And the “once awkward, diffident” son of the defendant “gave his testimony so promptly and so clearly that his testimony could not be shaken by the severe grilling on cross-examination.” The adept Dickey secured Rider’s acquittal, “and he went forth a free but ruined man, ostracized socially, bankrupt financially and morally depraved. On the 4<sup>th</sup> of December, 1843, Rider deeded his farm to Judge Dickey, and that was the price of his liberty.”<sup>8</sup>

With the outbreak of the Mexican War in 1846, Dickey raised a company at Ottawa as part of the 1<sup>st</sup> Illinois Regiment, under Col. John J. Hardin. While serving in Texas, Dickey became ill with dysentery and returned to Illinois. In 1848, he was elected

judge of the Ninth Judicial Circuit, comprising LaSalle, Kendall, Kane, DeKalb, Ogle, Stark, Peoria, Marshall, and Putnam counties, and for a time the county of Grundy. “For the next four years,” Burton Cook remembered, “we rode the circuit, for the most part together, and shared in the experiences incident to a recently settled frontier country. In discharging the duties of a judge, he was noted for the clearness of his discrimination, and the facility with which he grasped the real points of a case, and the absolute integrity which guided his decisions.”<sup>9</sup>

Resigning from the circuit court in 1852, Dickey opened a law office in Chicago while retaining his Ottawa residence, and eventually repaid his debts. Through his practice, he became friends with fellow attorney Abraham Lincoln. On Christmas Day, 1855, Dickey’s wife, Juliet, died. “My older brothers and sisters could get along very well,” son Charles Dickey later recalled, “but my younger brothers and sisters and I were the problems. Lincoln and Judge [David] Davis knew this worried father. Lincoln offered to take me into his home in Springfield for the rest of the winter, and Judge Davis, then at Bloomington, offered to take my sister. I don’t know what came up to prevent it, but my sister and I stayed that winter with Judge Davis. I always regretted the circumstances that deprived me of the great privilege of being a member of the Lincoln household even for such a short period of time.”<sup>10</sup>

As the 1856 Whig nominee for Congress from the Third Congressional District, Dickey accepted advice from David Davis and withdrew from the race because Davis “feared defeat for his old-time friend.” The candidate of the new Republican party, Owen Lovejoy, an abolitionist Congregational minister, won by a 6,000-vote plurality over the Democratic candidate.<sup>11</sup> Two years later, Dickey became an ardent Democrat,

campaigning for Stephen A. Douglas in the senatorial contest with Lincoln. In 1860, Dickey realized that Douglas could not win the presidential election and supported the candidacy of his friend Lincoln.

At the beginning of the Civil War, Dickey raised and became the colonel of the Fourth Illinois Cavalry. Joining General Ulysses S. Grant at Cairo in December 1861, Dickey participated in the capture of Fort Henry, led the advance at Fort Donelson, and took part in the battle of Shiloh, with two of his sons and a son-in-law, General William H. L. Wallace, who died in that conflict.<sup>12</sup> Later in 1862, Dickey became Chief of Cavalry under Grant, commanding four brigades of cavalry. "At one time," wrote a biographer, Dickey "selected six hundred men and engaged in an extensive and successful raid through a region of country swarming with confederate soldiers, and returned safely and without losing a man."<sup>13</sup>

Because of ill health, Dickey resigned his military command in 1863 and returned to Ottawa, where he established a law firm with John B. Rice. Dickey's son Sirius, with whom he had practiced prior to the war, was killed in the April 1864 battle at Red River.<sup>14</sup>

Dickey won the 1866 Democratic nomination for Congressman-at-Large, but lost to the Republican nominee, Civil War general John A. Logan. Dickey then accepted appointment as Assistant U.S. Attorney General, in charge of government suits in the Court of Claims and the U.S. Supreme Court. Again in ill health, he resigned the federal position and recuperated in Florida. Forming a partnership in Ottawa with Henry Boyle and Samuel Richolson, Dickey in 1871 married Beulah Risley Hirst of Maryland.<sup>15</sup> In

1874, the couple moved to Chicago, where he resumed his law practice and was appointed corporation counsel for the city.<sup>16</sup>

In 1875, Dickey won election to fill the Illinois Supreme Court vacancy created by the resignation of William K. McAllister. Dickey “gained a distinct popularity and uniform respect,” wrote John M. Palmer. “Possessed of wonderful memory, and with a remarkable power of analysis, his judgments were always received with profound consideration, and his opinions on important cases have generally been sustained.”<sup>17</sup>

Reelected in 1879, he succeeded Pinkney Walker as Chief Justice in 1880.<sup>18</sup> In one of the significant cases of the period, *Parker v. People*, Dickey dissented from Walker’s 1884 opinion regarding the constitutionality of an 1879 law that provided “for the free passage of fish in the waters of this State.” Michael C. Parker, who owned a dam across the Fox River in Kendall County, was prosecuted under the new law for “neglect or refusal to comply with” the requirement that he construct suitable fishways, “in order that the free passage of fish up or down or through such waters may not be obstructed.” Parker’s attorneys contended that his private dam had been built under a state charter some fifty years earlier and thus not subject to the new legislation.

After the Kendall County Circuit Court found Parker guilty, the Supreme Court heard the case and affirmed the lower court. In a fourteen-page dissent, Justice Dickey argued against “the police powers” of government. “The provision of our constitution protecting private property from being taken or damaged without just compensation is *unconditional*.”<sup>19</sup> Illinois court historian James E. Babb considered Dickey’s dissent as “indicative of his industry, learning, logic, and skilful powers of discussion.”<sup>20</sup>

In *Peck et al., v. Herrington*, Dickey again dissented from the other justices, on a property-rights appeal from the Kane County Circuit Court regarding surface-water drainage. Without explanation, he wrote, “I can not concur in this decision,” disagreeing with the Court ruling reversing the circuit court that an owner could tile drain his land, even if it increased the flow of water on subservient land. That decision, according to court historian Ralph M. Snyder, enabled Illinois farmers to convert lowland prairie acreage into choice agricultural land.<sup>21</sup>

Dickey served on the Supreme Court until the summer of 1885, when he again became seriously ill. He and his wife traveled to Atlantic City, New Jersey, where he hoped to recuperate by rest and inhaling the sea breezes. His strength did not return, however, and he died there on July 22, 1885.

Dickey’s remains were brought by train from Atlantic City to Ottawa, there conveyed to the Supreme Court Building. His swords from the Mexican and Civil wars lay crossed on his coffin.<sup>22</sup> “His funeral was probably the most elaborate ever held in Ottawa,” wrote one historian. “Special cars brought friends, soldiers, justices and others prominent in public life. His death preceded that of General Grant by one day. There was genuine mourning in Ottawa because of the deaths of these two great men who had served together.”<sup>23</sup> Following Episcopal services Dickey was interred in the family cemetery, on a north bluff overlooking Ottawa.<sup>24</sup>

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T. Lyle Dickey Papers: In Wallace-Dickey Family Papers, Abraham Lincoln Presidential Library, Springfield, Ill.

<sup>1</sup> *Biographical Encyclopaedia of Illinois* (Philadelphia: Galaxy Pub. Co., 1875), 125.

<sup>2</sup> *Chicago Times*, 23 July 1885, 3.

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<sup>3</sup> James S. Ewing, “Memorial Address; Life and Services of T. Lyle Dickey,” *Proceedings of the Illinois State Bar Association . . . 1885* (Springfield, IL: 1885), 63.

<sup>4</sup> Wayne C. Townley, *Two Judges of Ottawa* (Carbondale, IL: Egypt Book House, 1948), 11-12.

<sup>5</sup> 121 Ill. 10; Townley, 13.

<sup>6</sup> *Ottawa Free Trader*, 25 July 1885, 4.

<sup>7</sup> 121 Ill. 13.

<sup>8</sup> Avery N. Beebe, “Judge Theophilus L. Dickey and the First Murder Trial in Kendall County,” *Journal of the Illinois State Historical Society*, 3 (January 1911), 49-50.

<sup>9</sup> 121 Ill. 13.

<sup>10</sup> Quoted in C. C. Tisler, *Lincoln’s In Town* (Ottawa: 1940), 27.

<sup>11</sup> Beebe, 52-58.

<sup>12</sup> 121 Ill. 10-11.

<sup>13</sup> *Chicago Times*, 3.

<sup>14</sup> *Biographical Encyclopaedia*, 125; Townley, 14; *Ottawa Free Trader*, 4.

<sup>15</sup> *Daily Republican Times* (Ottawa), 26 March 1923, 4.

<sup>16</sup> 121 Ill. 11.

<sup>17</sup> John M. Palmer, ed., *The Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 63.

<sup>18</sup> *National Cyclopaedia of American Biography*, Vol. 12 (New York: James T. White & Co., 1904), 223.

<sup>19</sup> *Parker v. People*, 111 Ill. 581 (1884).

<sup>20</sup> James E. Babb, “The Supreme Court of Illinois,” *The Green Bag*, 3 (1891), 235.

<sup>21</sup> *Peck v. Harrington*, 109 Ill. 611 (1884); Ralph M. Snyder, “Ten Significant Decisions of the Illinois Supreme Court,” *John Marshall Law Quarterly*, 5 (June 1940), 441-42.

<sup>22</sup> *Ottawa Free Trader*, 1 August 1885, 4.

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<sup>23</sup> Townley, 15.

<sup>24</sup> *Ottawa Free Trader*, 4.