

David J. Baker
1878-1879, 1888-1897

© Illinois Supreme Court Historic Preservation Commission
Image courtesy of the Abraham Lincoln Presidential Library

A member of a prominent southern Illinois family, David Jewett Baker was born in Kaskaskia on November 20, 1834, the third son of Connecticut native David Jewett



Baker and Sarah Fairchild Baker. The couple had moved to Kaskaskia in 1819, where he served a long tenure as Probate Judge of Randolph County, “the equal of any contemporary lawyer at the Illinois Bar,” according to court historian James E. Babb.¹

Strongly opposed to the introduction of slavery into the state, the elder Baker engaged in a physical confrontation with the pro-slavery

Supreme Court Chief Justice Thomas Reynolds on a Kaskaskia street in 1824.²

According to a county historian, Baker sustained a bludgeon mark during the altercation that remained “to his dying day.”³ In late 1830, Governor Ninian Edwards named Baker to fill the unexpired term of deceased U.S. Senator John McLean. Returning to Illinois, Baker was United States District Attorney at the time of his son’s birth.⁴

Acquiring an early education at area schools, the younger Baker graduated with honors in 1854 from Shurtleff College in Alton, then studied law under his father’s tutelage. In 1855, his brother Edward L. Baker, also an attorney and publisher of the

Alton Daily Telegraph, purchased the *Illinois State Journal*, a Springfield newspaper strongly identified with the new Republican Party.⁵

David Baker, after admittance to the Illinois bar in 1856, began his practice in Alton. “From the beginning of his career,” reported one historian, “he took an active part in politics, and with the example of his illustrious father before him was a vigorous opponent of slavery.”⁶ In 1856, Baker moved to Cairo, where he nurtured an extensive practice, in partnership with future Supreme Court justice John H. Mulkey, then with future circuit court judge William H. Green. Baker also served several terms as alderman and one term each as city attorney and mayor.⁷ In July 1864, he married Sarah Elizabeth White, daughter of Captain John C. White of Cairo. The Bakers became the parents of two sons and three daughters.⁸

In March 1869, the Republican Baker won election as judge for the Nineteenth Judicial Circuit, comprising Alexander, Pulaski, Massac, and Pope counties. In accordance with the 1870 Illinois Constitution, the General Assembly divided the state into twenty-six circuits, and Baker was elected without opposition as Judge of the Twenty-sixth Judicial Circuit.⁹ On July 9, 1878, his friend and Illinois Governor Shelby M. Cullom named Baker to fill the unexpired Supreme Court term of deceased Justice Sidney Breese.

Among Baker’s opinions during that year-long tenure, *Norton et al. v. Richmond* concerned liability for grain purchases. Thomas Richmond, who bought and sold grain through Norton & Company, had refused to accept liability for purchases and sales made in his absence by his son Holland Richmond that resulted in heavy losses. After witnesses

presented conflicting testimony as to whether the father had instructed his son to make those transactions, a Cook County Circuit Court jury found for Thomas Richmond.

“The testimony of Holland Richmond tended to confirm that of his father,” Baker wrote in affirming the Cook County decision. “Some of the circumstances in proof were corroborative of the statements of [Norton agent Charles E.] Hill, and some corroborative of those of Thomas Richmond. The jury were the judges of the fact, and it was their province to determine the degree of weight to be given the testimony of each witness. We see no sufficient reason for disturbing the verdict.”¹⁰

Baker served in the Supreme Court until the election of John Mulkey in 1879. Later that year, the Supreme Court justices appointed Baker to the Fourth District Appellate Court, and to the Second District in 1882.¹¹ “He was thoroughly impartial and was extremely anxious to reach the correct conclusion,” recalled fellow Appellate justice Oliver A. Harker. “I have seen judges who would feel terribly humiliated in changing, during trial, a ruling previously made, and so would prefer to let an error stand and escape the humiliation by subsequently setting aside a verdict on some other ground. Not so with Baker; I have seen him in a hotly contested trial, with the court room full of people[,] call a halt, reverse a previous ruling and give reasons for doing so. Is it any wonder then that he was with lawyers the most popular circuit judge of his day and was held in rare esteem by the people at large?”¹²

In 1885, Baker won the election to succeed Mulkey on the Supreme Court. “It is said,” reported the *Chicago Legal News*, that when Baker “went upon the bench of the Supreme Court there was one important case held over in which the judges were three to three; that the chief justice said, ‘Judge Baker, take the papers and write the opinion, for

as you go, so goes the case, as we are three and three;’ and that when he wrote the opinion it was so logical, clear and convincing that there was not a dissent, but all the judges concurred.”¹³

Baker served as Chief Justice from June 1893 to June 1894. In January 1894, he delivered the majority opinion in *People ex rel. Bradley v. State Reformatory*. The case involved the imprisonment of two young men, one eighteen years of age and the other aged twenty, both convicted of burglary and larceny. Under provisions of the 1891 Illinois State Reformatory Act, the Peoria County Circuit Court jury had returned the guilty verdicts but did not determine the punishment or the term of imprisonment. A judge of the circuit court ordered the men confined in the Illinois State Reformatory at Pontiac “for and during a term of commitment to be terminated” by the Reformatory’s board of managers. Lida Bradley, a relative of one of the convicted men, petitioned for a writ of habeas corpus and for the court to rule on the constitutionality of such indeterminate imprisonment.

“An adult convicted of burglary would be sentenced to the penitentiary,” Baker wrote in dismissing the writ, “and to either solitary confinement or hard labor therein, and the statutes which consign him to such punishment must be regarded as highly penal”:

A minor, however, instead of being sentenced to solitary confinement or hard labor in a penitentiary, is committed to the State reformatory. The general scope and humane and benign purpose of the statute establishing the reformatory are clearly indicated by the following provisions found in section 6: “It shall be the duty of the managers to provide for the thorough training of each and every inmate in the common branches of an English education; also in such trade or

handicraft as will enable him, upon his release, to earn his own support. For this purpose said managers shall establish and maintain common schools and trade schools in said reformatory.”¹⁴

Baker concluded that there was no evidence that the boys were wrongfully imprisoned nor deprived of their liberty while at the reformatory.

Narrowly defeated for reelection in 1897 by Democratic candidate Carroll Boggs, Baker and his wife moved from Cairo to Chicago, where he engaged in general practice with his son John W. Baker.¹⁵ His other son, Captain David J. Baker, was serving with the 12th U.S. Infantry in the Philippines.¹⁶

On March 13, 1899, the sixty-three-year-old David Baker died suddenly of a heart attack at his Boyce Building office in downtown Chicago.¹⁷ Following services at the Church of the Redeemer, Baker was buried in Mount Greenwood Cemetery in Chicago.¹⁸

“He was considered one of the brightest lights of the Supreme Court, and his opinion was always respected by his colleagues,” eulogized the *Chicago Tribune*. “His decisions, while on the Supreme Bench, had won for him the respect of scores of Chicago lawyers, and his office was daily visited by those wishing opinions on important cases, or interpretation of fine points in law.”¹⁹

David J. Baker Family Papers: Abraham Lincoln Presidential Library, Springfield, Ill.

¹ James E. Babb, “The Supreme Court of Illinois,” *The Green Bag*, 3 (1891), 236.

² *Daily State Register* (Springfield), 15 March 1885, 2.

³ *Combined History of Randolph, Monroe and Perry Counties, Illinois* (Philadelphia: J. L. McDonough & Co., 1883), 182.

⁴ 53 Ill. i; 183 Ill. 9; David Kenney and Robert E. Hartley, *An Uncertain Tradition; U.S. Senators from Illinois, 1818-2003* (Carbondale: Southern Illinois University Press, 2003), 19.

⁵ Douglas L. Wilson and Rodney O. Davis, eds., *Herndon's Informants; Letters, Interviews, and Statements about Abraham Lincoln* (Urbana: University of Illinois Press, 1998), 251, 738; Edward J. Dunne, *Illinois; The Heart of the Nation, Vol. 3* (Chicago: Lewis Pub. Co., 1933), 25.

Edward Baker later served for twenty-three years as U.S. Consul at Buenos Aires, Argentina. *Daily State Register*, 2; Newton Bateman and Paul Selby, eds., *Historical Encyclopedia of Illinois* (Chicago: Munsell, 1900), 32.

⁶ W. T. Norton, ed., *Centennial History of Madison County, Illinois and Its People, 1812-1912* (Chicago: Lewis Pub. Co., 1912), Vol. 1, p. 968.

⁷ *The United States Biographical Dictionary and Portrait Gallery of Eminent and Self-Made Men, Illinois Volume* (Chicago: American Biographical Pub. Co., 1876), 647; John M. Lansden, *History of the City of Cairo* (Chicago: R. R. Donnelley & Sons Co., 1910), 180.

⁸ *The Citizen* (Cairo), 16 March 1899, 1.

⁹ *United States Biographical Dictionary*, 648.

¹⁰ *Norton v. Richmond*, 93 Ill. 367 (1879).

¹¹ *Chicago Times-Herald*, 14 March 1899, 12.

¹² Oliver A. Harker, "Fifty Years With Bench and Bar of Southern Illinois," *Transactions of the Illinois State Historical Society*, 27 (1920), 50.

¹³ *Chicago Legal News*, 18 March 1899, 253.

¹⁴ *People ex rel. Bradley v. Superintendent Illinois State Reformatory*, 148 Ill. 413 (1894).

¹⁵ *Chicago Daily Tribune*, 15 June 1897, 2; 183 Ill. 10.

¹⁶ 183 Ill. 11.

¹⁷ *Chicago Tribune*, 14 March 1899, 5.

¹⁸ *The Citizen* (Cairo), 23 March 1899, 1.

¹⁹ *Chicago Tribune*, 5.