

Gustavus Koerner 1845-1848

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A native of Frankfurt am Main, Germany, Gustavus Koerner¹ was born on November 20, 1809, the son of Bernhard and Marie Magdalene Kampfe Koerner. From age seven to nineteen, Gustavus attended Frankfurt schools, then the University of Jena, where he joined the student patriotic and revolutionary organization Burschenschaft. Completing law studies at the University of Heidelberg, he graduated with high honors.²



Remaining in Heidelberg, Koerner participated in Burschenschaft uprisings.

On the evening of April 3, 1833 he was among sixty young men who assaulted a Frankfurt garrison. Wounded in the failed attack, he fled to France, then sailed with friends for the United States.³ The ship *Logan* arrived in New York on June 17, and three days later he recorded in a New York City court his intention to become a U.S. citizen.⁴

Within a week of arrival, the immigrants traveled westward to St. Louis, then followed relatives and acquaintances to St. Clair County, Illinois, east of Belleville. Koerner's friend Frederick Engelmann bought a farm in the same vicinity, and he and his family, along with Koerner, moved to the farm. Admitted to the Illinois bar in 1835,

Koerner married Engelmann's daughter Sophie on June 17, 1836. They became parents of eight children, several of whom died in infancy.

"Life on the farm was of primeval simplicity," reported Koerner biographer R. E. Rombauer. "The produce of their land, and the game with which the country was then teeming, was sufficient to supply their simple table. The life of a farmer, however, was not congenial to Koerner's taste, and he decided to fit himself for his original profession, that of the law."⁵

Koerner enrolled in the one-year law course at Transylvania University in Lexington, Kentucky. Returning to Belleville, he passed the bar examination and formed a partnership with attorney Adam W. Snyder and later with James Shields. In other activities, Koerner established a German and English school in Belleville and served as its first teacher. He also joined with other area residents to found the Belleville Public Library. "This undertaking, very humble in its inception," wrote Rombauer, "grew rapidly under his fostering care." When the organizers transferred the library to the city of Belleville, Koerner continued as president of the board of directors until his death.⁶

Koerner wrote extensively for the German and English press and for several months in 1840 published *Der Freiheitsbote für Illinois*, probably the state's first non-English newspaper. A Democratic campaign organ, *Der Freiheitsbote* promoted the reelection of President Martin Van Buren and sharply rebuked the nativist movement.⁷

"Since he spoke English, German and French with almost equal fluency," according to Rombauer, Koerner "soon became one of the most popular, and sought after political speakers. While small in stature his voice was sonorous and far-reaching . . . exercising a marked influence over his hearers." Strongly anti-slavery, Koerner as a

young man witnessed the sale of a free Negro into temporary servitude under Illinois law. According to Rombauer, Koerner “paid with his slender means the fine of the Negro thus to be sold, and turned him free.”⁸

In 1842, voters elected Koerner to the Illinois General Assembly. He served only one term and was a member of the ways and means and judiciary committees. After James Shields became a judge of the Illinois Supreme Court and Adam Snyder died, Koerner formed a law partnership with William Bissell, who in 1856 would become the state’s first Republican governor.⁹

On April 2, 1845, Governor Thomas Ford selected Koerner to succeed Shields on the state Supreme Court and the Second Judicial Circuit, “in deference,” explained fellow attorney Usher F. Linder, to the “six to ten thousand” German Democrats in St. Clair County. “At that time there were more Germans in St. Clair county than in any other locality in the State.”¹⁰

The following year, legislators elected Koerner to a full Supreme Court term. “To his profession,” wrote historian Frederick B. Crossley, Koerner “brought a mind thoroughly trained and a conception of the law as one of the oldest and most fundamental professions, with something of a sacred character. His legal lore is said to have covered every department in the science of jurisprudence, and he won distinction at the bar among men of national reputation, including Lincoln [and] Douglas.”¹¹

In the December 1846 term, Justice Koerner delivered the opinion in *Munsell v. Temple*, in which Abraham Lincoln represented plaintiff Roswell Munsell against McLean County Treasurer William H. Temple. Munsell had purchased a Bloomington grocery store but failed to pay a \$21.38 promissory note for the store’s liquor license.

Reversing the McLean County Circuit Court ruling that favored Temple, Justice Koerner wrote: “Licenses attach to the person, and cannot be used by others, even with the consent of the Court. . . .It is a plain violation of the express letter of the statute to issue a license on credit, and the undertaking of Munsell to pay was consequently founded on a contract against the express provisions and the general policy of the statute, and was therefore void in law, and cannot be enforced.”¹²

Justice Koerner delivered a dissenting opinion in *Baxter v. People*. A Warren County Circuit Court jury had convicted John Baxter of murder and pronounced a death sentence. His attorney Onias C. Skinner appealed the decision, in part on grounds that the verdict was rendered on a Sunday, illegal by state statute. Justice John Dean Caton cited several judicial errors in delivering the majority opinion that voided the circuit court judgment.

“Admitting that it were legal to receive a verdict on Sunday,” Koerner argued in his nearly five-page dissenting opinion, “but illegal as the Court say, to pronounce judgment, what are the consequences of the reversal of the judgment? . . . As he was sentenced to the proper punishment, but on the wrong day, the verdict must stand. I cannot accede to this reasoning. . . . It seems to follow, that if Baxter had not taken the appeal, and had been executed, the sheriff would have been guilty of murder, as he then would have acted without any authority whatever.”¹³

With reorganization of the judiciary in 1848, Koerner returned to his lucrative law practice. During nearly four years on the Court, Koerner’s opinions, according to attorney Marshall W. Weir, had indicated “that he was an educated lawyer and an able and just judge. The state was then in its infancy; the courts had established but few precedents; the

questions that arose were largely questions of first impression, and the labors of the justices were both difficult and responsible; and it may be said of Justice Koerner that he well performed the work of establishing precedents for his successors.”¹⁴

From 1853 to 1857, Koerner served as Lieutenant Governor under Democratic Governor Joel Matteson. An outspoken opponent of the Kansas-Nebraska bill allowing the possible expansion of slavery into U.S. territories, Koerner in 1856 served on a statewide committee to establish an “Anti-Nebraska” party.¹⁵ Maintaining that the new Republican party “meet all the important political issues clearly and distinctly,” Koerner explained, “I could not cooperate with any party that did not, while asserting the principle that soil heretofore free shall remain free as long as it is territory, at the same time affirmatively maintain that the Constitutional rights of the Southern States should never be interfered with.”¹⁶

The unsuccessful Republican candidate for Congress from the Belleville district, Koerner became a strong supporter of presidential candidate Abraham Lincoln. In April 1861, as the Civil War began, Koerner moved to Springfield and organized the Illinois volunteers, while also assuming responsibility for some of President Lincoln’s law cases. For a time Koerner served as a colonel on the staffs of General John C. Fremont and his successor General Henry W. Halleck.¹⁷

In 1862, Lincoln appointed Koerner the minister to Spain, where he endeavored to counteract English and French attempts for a joint recognition of the Confederacy and to cultivate the traditional friendly relations with Spain.¹⁸ While there, he authored *Aus Spanien*, a book on Spanish art, natural beauties, and the ethnic characteristics of the diverse population.

Returning to the states in 1864, Koerner resumed his Belleville law practice with one son. In 1867, the elder Koerner became president of the board of trustees that organized the Soldiers' Orphans' Home in Bloomington.¹⁹ In 1868, he served as president of the Illinois Electoral College and a Republican elector-at-large for Ulysses S. Grant. Three years later, intolerant of pervasive corruption in the Grant administration, Koerner joined the Liberal Republican movement. Nominated for governor by a coalition of Liberal Republicans and Democrats, he lost overwhelmingly to Republican Richard J. Oglesby.²⁰

By 1876, Koerner retired from active political participation to focus on his law practice as well as literary works, including writing his autobiography. The oldest practicing attorney in Illinois, Koerner died in Belleville at age eighty-seven on April 9, 1896. His long-time friend and former Supreme Court Justice Lyman Trumbull delivered the funeral eulogy at Walnut Hill Cemetery in Belleville.²¹

Gustavus Koerner Papers: Abraham Lincoln Presidential Library, Springfield, Ill.

¹ Also spelled Gustav, Gustave Koerner.

² R. E. Rombauer, "Life of Hon. Gustavus Koerner," *Transactions of the Illinois State Historical Society*, 9 (1904), 286-87.

³ 162 Ill. 21.

⁴ Rombauer, 291.

⁵ Rombauer, 291.

⁶ Rombauer, 292; 162 Ill. 29.

⁷ Ellen M. Whitney, comp., *Illinois History; An Annotated Bibliography* (Westport, CT: Greenwood Press, 1995), 487.

⁸ Rombauer, 306.

⁹ Rombauer, 293.

¹⁰ General Usher F. Linder, *Reminiscences of the Early Bench and Bar of Illinois* (Chicago: Chicago Legal News Co., 1879), 190.

¹¹ Frederic B. Crossley, *Courts and Lawyers of Illinois* (Chicago: American Historical Society, 1916), 300.

¹² *Munsell v. Temple*, 8 Ill. (3 Gilman) 93 (1846); Susan Krause and Daniel W. Stowell, *Judging Lincoln; The Bench in Lincoln's Illinois* (Springfield: Illinois Historic Preservation Agency, 2008), 31.

¹³ *Baxter v. People*, 8 Ill. (3 Gilman) 368 (1846).

¹⁴ John M. Palmer, ed., *The Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 49.

¹⁵ 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), 198.

¹⁶ Koerner to the *Belleville Advocate*, quoted in Harris, 200.

¹⁷ P. G. Rennick, "Courts and Lawyers in Northern and Western Illinois," *Journal of the Illinois State Historical Society*, 30 (1937-1938), 325.

¹⁸ Dumas Malone, ed., *Dictionary of American Biography*, X, 496-97.

¹⁹ Crossley, 301.

²⁰ Robert P. Howard, *Mostly Good and Competent Men; Illinois Governors, 1818-1988*, (Springfield: Illinois Issues, 1988), 139.

²¹ 162 Ill. 32; *Belleville Weekly Advocate*, 17 April 1896, 1. Trumbull became ill at the service and two months later died at his Chicago home.