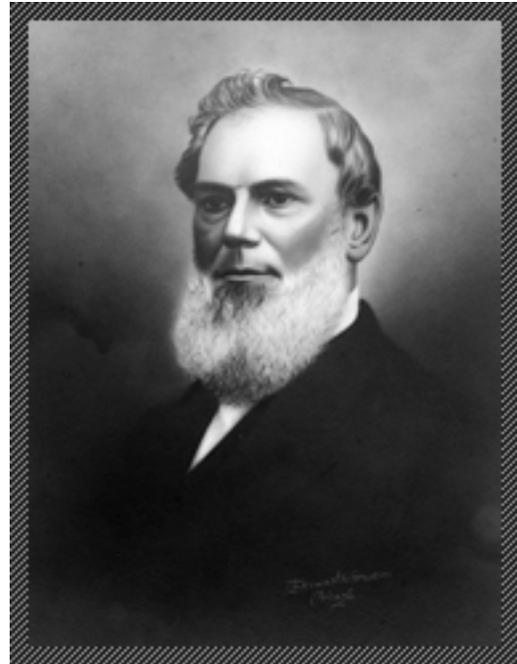


John Dean Caton
1842-1843, 1843-1864

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With adoption of the 1848 state Constitution, Illinois voters elected John Dean Caton to one of three seats on the Supreme Court. He had been an appointed justice since 1842.

Born in Monroe, Orange County, New York on March 19, 1812, Caton was the son of Robert and Hannah Dean Caton. Their ancestors immigrated to this country prior to the Revolutionary War, and Robert Caton served in the American Army.¹ At age seventeen, John Dean Caton enrolled in a surveying course at a Utica academy. Then he taught school while also working as a farmhand and studying law, eventually being admitted to the New York bar.²



In 1833, attracted by opportunities in the west, Caton moved to Chicago, Illinois, a town of fewer than three hundred residents.³ “Young man, I shall give you a license,” Justice Samuel Lockwood advised Caton after he passed the examination for admission to the Illinois bar, “but you have a great deal to learn to make you a good lawyer. If you work hard you will attain it.” Nine years later, Caton would sit with Lockwood on the Illinois Supreme Court.⁴

Caton opened one of the first law offices in Chicago in a Lake Street back room with partner Giles Spring. “We had to live principally upon hope,” Caton later related, “for the population was too scant and commerce too small to occupy much of the time or afford a decent support for two young lawyers just commencing professional life.” According to John M. Palmer, Caton prosecuted the first criminal case in Cook County. Upon the defendant’s conviction for stealing \$46, Caton received \$10 of the recovered money, which he described as his “greatest fee.”⁵

Caton became active in Democratic politics and served as secretary of the state’s first political convention held in 1834. That year, he won election as justice of the peace of Cook County. The following spring, he extended his practice to Putnam County in northeastern Illinois, traveling on horseback between the two locations. In July 1835, Caton married Laura Adelaide Sherrill of New Hartford, Oneida County, New York. They built the first house in the “school section” west of the Chicago River and became the parents of three children.⁶

In 1836, Caton formed a law partnership with Norman B. Judd and a year later became a Chicago alderman.⁷ After the heavy workload began affecting his health, Caton accepted his physician’s advice to relocate to a rural community, recuperating on a Will County farm, south of Chicago. By 1842, he had regained his health and, while retaining his Chicago home, moved to Ottawa, Illinois. There he built a large residence on a bluff above the city and established a law practice.

Governor Thomas Carlin appointed Caton as an interim associate justice of the Illinois Supreme Court in August 1842, succeeding Thomas Ford, who resigned to run for governor. Seven months later, John M Robinson defeated Caton for the position, but

in May 1843 newly elected Governor Ford reappointed Caton to the Supreme Court, succeeding Robinson, who had just died.⁸

That year, while performing circuit duties in Bureau County, Caton became involved in a slavery case against abolitionist Owen Lovejoy. Convicted under the state Act of 1829, which imposed penalties for harboring a black not possessing a certificate of freedom, Lovejoy appealed to the Bureau County Circuit Court. Caton, in his charge to the jury, stated, “By the Constitution of this State, slavery cannot exist here. If, therefore, a master voluntarily bring his slave within the State, he becomes from that moment free, and if he escape from his master while in this State, it is not an escape from slavery, but it is going where a free man has a right to go.”⁹ The jury acquitted Lovejoy, “the first instance,” wrote historian N. Dwight Harris, “where the courts of Illinois declared that residence in a free territory entitled a slave to his freedom.”¹⁰

With reorganization of the judiciary under the 1848 Constitution, Illinois voters in the northern third of Illinois elected Caton as one of the three Supreme Court justices, joining Samuel H. Treat and Lyman Trumbull. In one of the first cases under the new constitution, the court heard an appeal in which Caton was the circuit judge under the old constitution. In *Seeley v. Peters*, Caton issued one of his strongest dissents. Fencing laws were very important in antebellum Illinois as the English common law required property owners to fence in their livestock. Seeley’s hogs entered Peters’ property and destroyed a wheat crop. Peters sued Seeley and won the case at the circuit level, in which Justice Caton presided. Seeley appealed the case to the Illinois Supreme Court with former justice and former governor Thomas Ford representing him. The court reversed the decision claiming that the English common law requirement of fencing in livestock

worked well in England where land was not plentiful, but that it did not apply to the open prairies of Illinois.¹¹

Caton claimed to take great “care in examining the question, and thought I understood it thoroughly.” He felt that his input during conference was disregarded. Perceiving that his colleagues ignored him because they did not want to upset him for overturning his decision, Caton wrote a twenty-page dissent. He later claimed the dissent was “unpardonably long, and that some of its expressions were more pungent than I wish they had been.” Under the old Constitution, Justice Caton had even overturned some of his own circuit-level decisions. He stood by his reasoning in the *Seeley* case, claiming that the court cannot overturn the common law because that was the legislature’s responsibility.¹²

In the 1840s, Caton represented two New York friends in bringing one of the first telegraph lines into Illinois. He became a director and eventually the president and largest stockholder of the Illinois and Mississippi Telegraph Company. He expanded the operation into Iowa and Minnesota and contracted to install telegraph lines along railroad routes; soon those “lightning wires” provided news to nearly every town and village.¹³ Caton, the “telegraph king of the West” eventually earned enormous income from leases to the Western Union system.¹⁴

When Justice Treat resigned to accept a federal judgeship in 1855, Caton became Chief Justice of the Illinois Supreme Court. Anti-slavery advocates attacked Caton for his commitment to the popular sovereignty stance of Democratic U.S. Senator Stephen A. Douglas. Despite the charges, Caton won retention to the high court and served in the position until his retirement in 1864.¹⁵

Abraham Lincoln appeared before Justice Caton in more than two hundred legal cases. In *McConnel v. Delaware Mutual Safety Insurance Co., et al.*, Lincoln and Henry E. Dummer represented the insurance company in a claim that a Beardstown merchant deliberately set a fire that destroyed his store. After the Cass County Circuit Court ruled for the company, Caton in 1856 delivered the Supreme Court decision, detailing suspicious activities by the store owner before, during, and after the fire, then affirming the circuit court judgment.¹⁶

In retirement, Caton replaced his Ottawa home with a brick mansion and became a major stockholder in a local glass factory, dividing time between Ottawa and Chicago. In 1865, Caton returned to the Supreme Court to offer a formal resolution and eloquent personal recollections of assassinated President Abraham Lincoln, the former Illinois lawyer and legislator. “Who of this bar does not remember him as of yesterday,” Caton recalled, “when he was among us relieving the hard labors of the profession by his enlivening presence? He will ever be remembered as one of our brightest ornaments, whose practice reflected honor upon the profession.”¹⁷

An accomplished speaker and writer with an interest in natural history, he traveled extensively throughout the United States and Europe. A lifelong Quaker, on July 30, 1895 at age eighty-three, the wealthy and highly honored Caton died at his Chicago home. After services in Ottawa, he was buried in Ottawa Avenue Cemetery.¹⁸

John Dean Caton Papers: Library of Congress, Washington, D.C.

¹ 162 Ill. 15 (1896); Robert Fergus, *Biographical Sketch of John Dean Caton*, Fergus Historical Series, No. 21 (Chicago: Fergus Printing Co., 1882), 3-4.

² *Ottawa Free Trader*, 2 August 1895, 9.

³ Harry E. Pratt, ed., “John Dean Caton’s Reminiscences of Chicago in 1833 and 1834,” *Journal of the Illinois State Historical Society*, 28 (1935-1936), 5, 8.

⁴ Frederic B. Crossley, *Courts and Lawyers of Illinois* (Chicago: American Historical Society, 1916), 267; Fergus, 7.

⁵ Pratt, 15; John M. Palmer, *The Bench and Bar of Illinois; Historical and Reminiscent*, (Chicago: Lewis Pub. Co., 1899), 40, 604.

⁶ 162 Ill. 15; Fergus, 7; Palmer, 39.

⁷ Susan Krause and Daniel W. Stowell, *Judging Lincoln; The Bench in Lincoln’s Illinois* (2002, rpt, Springfield: Illinois Historic Preservation Agency, 2008), 12.

⁸ Daniel W. Stowell, ed., *In Tender Consideration; Women, Families, and the Law in Abraham Lincoln’s Illinois* (Urbana: University of Illinois Press, 2002), 223; Fergus, 7.

⁹ Crossley, 268; N. Dwight Harris, *The History of Negro Servitude in Illinois and of the Slavery Agitation in That State, 1719-1865* (1904, rpt. Ann Arbor, MI.: University Microfilms, 1968), 110-12; Theodore Calvin Pease, *The Frontier State, 1818-1848* (1918, rpt, Urbana: University of Illinois Press, 1987), 379.

¹⁰ Harris, 112.

¹¹ *Seeley v. Peters*, 10 Ill. (5 Gilman) 130 (1848).

¹² John Dean Caton, *Early Bench and Bar of Illinois* (Chicago: Chicago Legal News, 1893), 181-84.

¹³ Arthur Charles Cole, *The Era of the Civil War, 1848-1870* (Urbana: University of Illinois Press, 1987), 31.

¹⁴ Robert P. Howard, *Illinois; A History of the Prairie State* (Grand Rapids, MI: Eerdmans, 1972), 241; *State Journal-Register*, 6 February 2005, 29.

¹⁵ Robert W. Johannsen, *Stephen A. Douglas* (New York: Oxford University Press, 1973), 479; Cole, 327.

¹⁶ *McConnel v. Delaware Mutual Safety Insurance Co. et al.*, 18 Ill. 228 (1856); Krause and Stowell, 13.

¹⁷ Fergus, 15.

¹⁸ *Chicago Tribune*, 31 July 1895, 3; *Ottawa Free Trader*, 2 August 1895, 9; Wayne C. Townley, *Two Judges of Ottawa* (Carbondale, IL: Egypt Book House, 1948), 29; Cole, 366; Palmer, 41.