

ANNALS OF IOWA

ESTABLISHED 1863

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THIRD SERIES

IOWA'S SUPREME COURT

TERRITORIAL AND STATE SUPREME COURT JUSTICES IN REVIEW

More than seventy justices have served upon the Iowa Supreme Court bench during the years from 1838 when the Territory of Iowa was established by act of congress and the three first territorial justices were appointed by President Van Buren. There have been assembled the portraits of the men receiving this honor and serving in that capacity; biographical sketches of each and their service in this and other official relations have been written and will appear in THE ANNALS beginning with the current issue and will continue through Volume XXVI. Many of these men were distinguished further by serving as governors, members of congress, senators, and Supreme Court and Federal judges in other states.

In the presentation of this historic series difficulty was encountered in some instances in securing as clear photographs as might be desired; but the data covering the life and service of each justice, though necessarily brief for this purpose, may be relied upon as accurate. Sketches and portraits of sixteen or more justices will be presented in each issue of this journal of Iowa history in the order of their service on the bench from the first territorial days down to the present.

The area now included in the state of Iowa was a part of the Louisiana Purchase of 1803. In 1804 a portion of the purchase, including the region which later became the state of Iowa, was set off by congress as the District of Louisiana. This vast area extended from the Mississippi river to the Rocky mountains. It was a wild tract practically uninhabited by white men. For governmental

purposes it was attached to Indiana, and William Henry Harrison, afterward president, was appointed governor.

In 1812 Missouri was organized as a territory. It included all of the country that later became Iowa and much more. In 1821 Missouri was admitted to the Union as a State and the region which included Iowa was politically "left out in the cold," unorganized and unattached until June of 1834 at which time it became a part of the Territory of Michigan. The act of congress provided:

***all that part of the territory of the United States bounded on the east by the Mississippi river, on the south by the state of Missouri, and a line drawn due west from the north-west corner of said state to the Missouri river; on the south-west and west by the Missouri river and the White Earth river, falling into the same; and on the north, by the northern boundary of the United States, shall be, *** attached to *** the territory of Michigan ***.

COUNTY GOVERNMENT ESTABLISHED

At an extra session of the Sixth Legislative Assembly of Michigan held in September, 1834, the Iowa portion of Michigan Territory was divided into two counties by running a line due west from the lower end of Rock Island. The territory north of this line was named Du Buque county, and all south of it was Des Moines county. A court was provided for in each of the counties, the terms of which were to be held at Du Buque and Burlington. The first county court held in Iowa was convened in a log house in Burlington in April, 1835. The first county judges were appointed by the governor of Michigan. They were Isaac Loeffler, of Des Moines county, and John King, of Du Buque. Appeals (if any) would have been to the supreme court of the Territory of Michigan. There is no record that any such appeals were taken.

In July, 1836, the Territory of Wisconsin was formed and the area that afterward became Iowa was transferred from the Territory of Michigan to the Territory of Wisconsin.

By an act of congress approved June 12, 1838, the Territory of Wisconsin was divided and the Territory of Iowa was created. This act provided:

That from and after the third day of July next, all that part of the present Territory of Wisconsin which lies west of the Mississippi river, and west of a line drawn due north from the head waters or sources of the Mississippi to the territorial line, shall, for the purposes of temporary government, be and constitute a separate territorial government by the name of Iowa; ***.

Section 9 of said act provided:

That the judicial power of the said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate judges, any two of whom shall be a quorum, and who shall hold a term at the seat of government of the said territory annually, and they shall hold their offices during the term of four years.

This act creating the Territory of Iowa also provided:

The said territory shall be divided into three judicial districts; and a district court or courts shall be held in each of the three districts, by one of the judges of the supreme court, at such times and places as may be prescribed by law; ***.

President Van Buren appointed Charles Mason as chief justice, and Joseph Williams and Thomas Wilson as associate justices. The three justices of the territorial supreme court sat *en banc* as an appellate court, and each held district court. The first session of the supreme court of the Territory of Iowa was held in Burlington on November 26, 1838.

IOWA BECAME A STATE

On May 18, 1846, a convention held at Iowa City adopted a constitution for the state of Iowa. This was presented to the congress and approved, and on the 28th day of December, 1846, an Ordinance of Admission was signed by the president and Iowa became a state.

This constitution provided that:

All officers, civil and military, now holding their offices and appointments in this territory, under the authority of the United States, or under the authority of this territory, shall continue to hold and execute their respective offices and appointments until superseded under this constitution.

The three territorial supreme court justices originally appointed in 1838 continued as justices of the state of Iowa upon its admission to the Union on December 28, 1846. In June 1847, Chief Justice Charles Mason and Justice Joseph Williams resigned as territorial justices. Thereupon Governor Ansel Briggs appointed Justice Williams as Chief Justice and John F. Kinney as Associate Justice. These two, together with Associate Justice Thomas S. Wilson, then comprised the court.

Under Iowa's first constitution the supreme court also consisted of three members elected by the general assembly. Under the constitution of 1857 the members thereafter were elected by vote of the people. The Sixteenth General Assembly in 1876 increased the number from three to four and provided that the additional justice should be appointed by the governor to hold office until his successor was elected in 1878. Subsequently at various times the number upon the court has been increased until now there are nine members.

Beginning with Chief Justice Charles Mason, and following in the order of their service, sixteen portraits and sketches appear in this issue.



CHARLES MASON

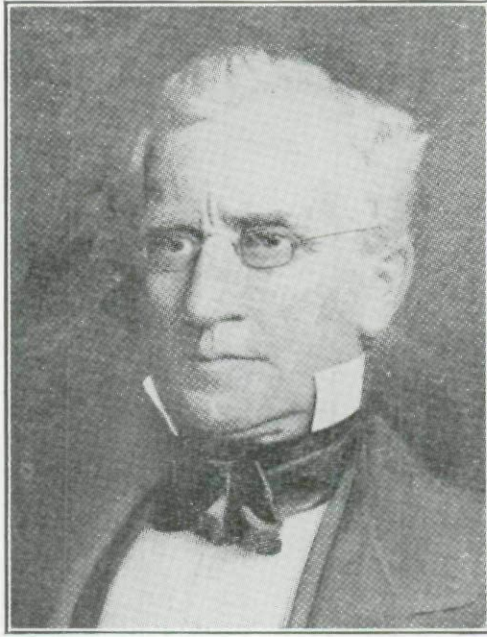
Served as Chief Justice of the Iowa Territorial Supreme Court from 1838 and as the first Chief Justice of the State Supreme Court until he resigned in June 1847.

Born October 24, 1804, in Onondaga county, New York. He was graduated from West Point Academy in 1829 at the head of his class which included Robert E. Lee, Jefferson Davis, and Joseph E. Johnston. For two years he remained at the Academy as Professor of Civil Engineering, later being admitted to the bar in New York.

He wrote the first opinion of the Supreme Court in 1839 while Iowa was a territory. This was the case of the ex-slave Ralph in which it was held that a slave brought into the free territory of Iowa became a free man. This was preliminary and contrary to the famous Dred Scott Decision of the United States Supreme Court.

Judge Mason was a member of the Code Commission of 1851 and represented Iowa in the Missouri boundary dispute. He later became United States Commissioner of Patents and a director of the Smithsonian Institute and of the Naval Observatory. He instituted the system which later became the United States Weather Bureau.

Judge Mason died in Burlington February 22, 1882.



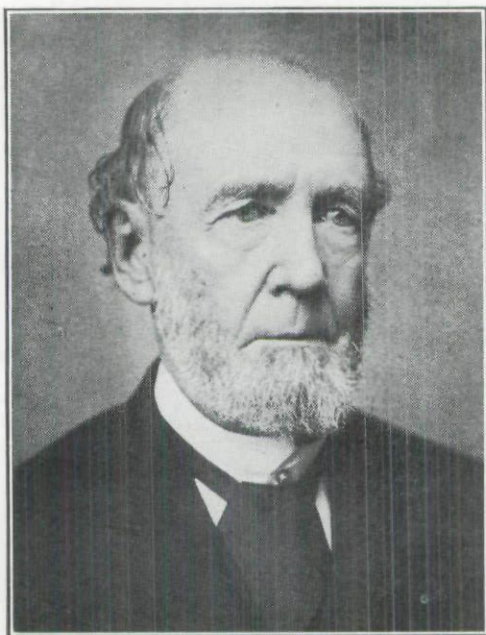
JOSEPH WILLIAMS

Served on the Iowa Supreme Court from the formation of Iowa Territory in 1838 and on the state Supreme Court until January 25, 1848; and again from January 15, 1849 until January 11, 1855. For seven years he was Chief Justice.

Born December 8, 1801, at Huntingdon, Pennsylvania. He studied law in the office of Chauncy Forward and was admitted to the bar in his native state where he practiced law for a time at Somerset. Upon his appointment to the Iowa Supreme Court in 1838 by President Van Buren he located in the new Territory of Iowa at Muscatine. His brother, Major William Williams, led the Spirit Lake Relief Expedition.

Judge Williams presided at the first court held in Polk county. This was a session of the District Court in April, 1846. In 1857 he was appointed, by President Buchanan, a Supreme Court judge of Kansas Territory and, later, by President Lincoln, as Judge of the United States District Court at Memphis, Tennessee.

Judge Williams died at Fort Scott, Kansas, March 31, 1870.



THOMAS S. WILSON

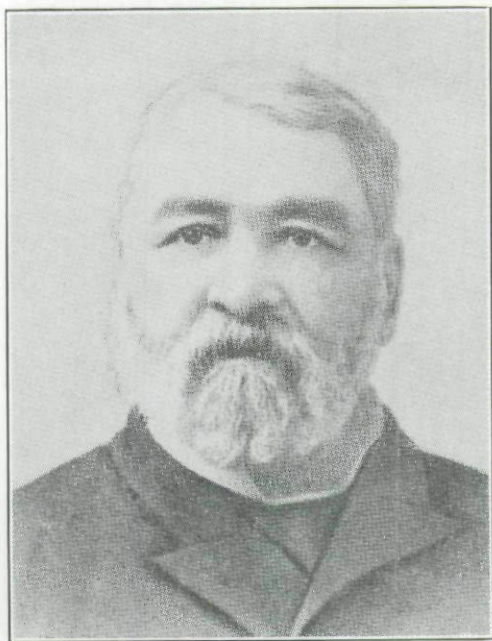
Served on the Iowa Supreme Court from the formation of Iowa Territory in 1838 until he resigned in October 1847.

Born October 13, 1813, at Steubenville, Ohio. He was graduated from Jefferson College, Pennsylvania, in 1836, and was a boyhood friend and neighbor of Edwin M. Stanton, later Secretary of War. Judge Wilson was but twenty-five years of age when appointed to the Supreme Court.

The first court session held in Iowa Territory was conducted in November 1838, by Judge Wilson at Prairie Laporte, near what is now McGregor. This was a session of the District Court, presided over by a justice of the Supreme Court.

As a practicing lawyer, he was instrumental in extinguishing the Spanish land grant titles in Iowa, thus securing to the early settlers, in Iowa Territory, their homes against ouster at the hands of land speculators. He was a member of the Eleventh and Twelfth General Assemblies. He served later on the District Bench. He had missed by one vote becoming first United States Senator from Iowa.

Judge Wilson died in Dubuque May 16, 1894.



JOHN F. KINNEY

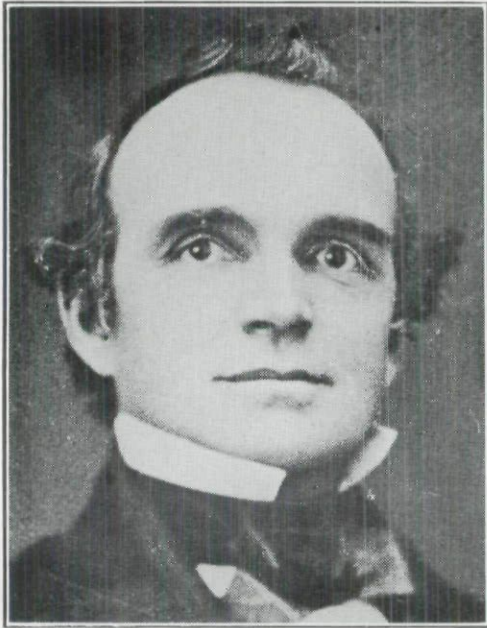
Served on the Iowa Supreme Court from June 12, 1847, when he was appointed to fill the vacancy occasioned by the retirement of Chief Justice Mason and the advancement of Judge Williams to that position, until he resigned February 15, 1854.

Born in New Haven, Oswego county, New York, April 2, 1816. In 1837 he was admitted to the bar at Marysville, Ohio, and practiced law at Mt. Vernon, Ohio, until he moved to Lee county, Iowa, in 1844.

He was Secretary of the Council of the Seventh and Eighth Iowa Territorial General Assemblies. Judge Kinney was a brother-in-law of Jonathan C. Hall, who succeeded him on the court. After his retirement from the court he was appointed by President Pierce as Chief Justice of the Utah Territorial Supreme Court. At the expiration of his term he resumed private practice, but in 1860 President Buchanan reappointed him as Chief Justice of Utah Territory.

He wrote the notable decision of the Iowa Supreme Court in the case of the Half-Breed Tract litigation from Lee county. (See 2 Greene 15.)

Judge Kinney died in San Diego, California, August 16, 1902.



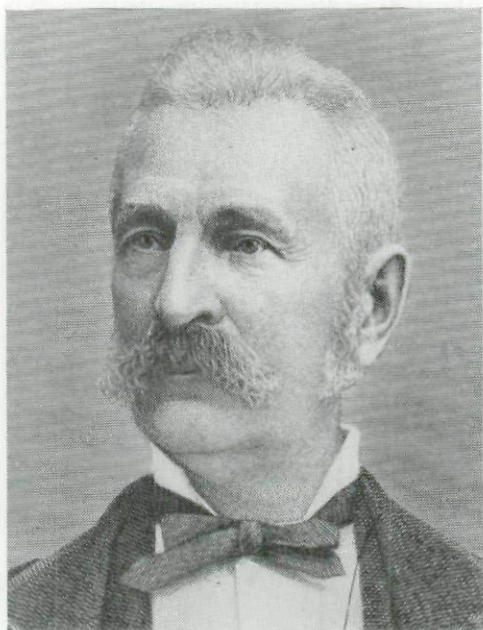
GEORGE GREENE

Served on the Iowa Supreme Court from November 1, 1847, when he was appointed to fill the vacancy occasioned by the retirement of Judge Thomas S. Wilson, until January 9, 1855.

Born in Staffordshire, England, in 1817, he came to New York state when two years of age. He was a member of the Third and Fourth Iowa Territorial General Assemblies and was but twenty-three years of age when first elected. He was thirty when appointed to the Supreme Court. While on the court he also served as its reporter, and prepared the four G. Greene Iowa Reports.

After leaving the bench he engaged in banking, manufacturing, and railroad building at Cedar Rapids, and in these fields was largely instrumental in building that city to the importance that it enjoys today.

Judge Greene died in Cedar Rapids June 23, 1880.



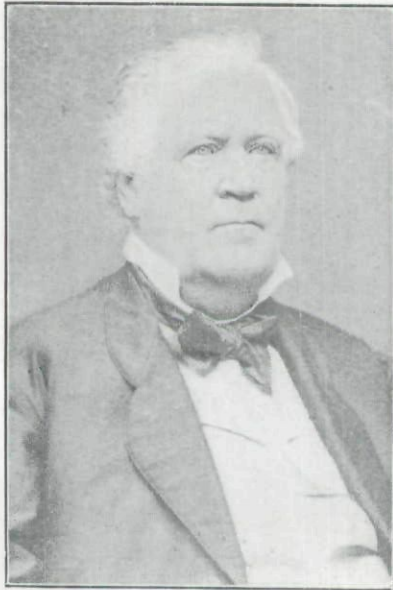
S. CLINTON HASTINGS

Served on the Iowa Supreme Court as Chief Justice for one year from January 26, 1848, to January 14, 1849, succeeding Judge Joseph Williams who then succeeded him.

Born in Jefferson county, New York, in 1814. Came to Burlington in 1837 and was elected a member of the House of Representatives of the First and Second Iowa Territorial General Assemblies and a member of the Legislative Council of the Third, Fourth, Seventh, and Eighth Territorial Assemblies. Served one term as Speaker of the House and one term as President of the Council, a position analogous to that now held by the Lieutenant Governor. He was the first representative in the Congress of the United States from the new State of Iowa.

Judge Hastings moved to California in 1849, in which state he was elected Attorney General and later Chief Justice of the Supreme Court. He established and endowed the Hastings Law School at the University of California.

Judge Hastings died in San Francisco in 1893.



JONATHAN C. HALL

Served on the Iowa Supreme Court from February 15, 1854, when he was appointed to fill the vacancy occasioned by the retirement of John F. Kinney, until January 15, 1855.

Born in Batavia county, New York, February 27, 1808. After attending Wyoming Academy in New York he engaged in surveying, then studied law at Albany. He first practiced law at Cleveland and Mt. Vernon in Ohio. In 1840 he came to Iowa and practiced at Mt. Pleasant and Burlington.

He was a member of the Eighth and Eighth Extra General Assemblies and of the Constitutional Convention of 1857. As a member of the convention he was author of the constitutional provision for the present public school system. He was also one of the founders of Iowa Wesleyan College. Judge Hall is credited with the responsibility of the publication of the Code Revision of 1860. He was, for a time, president of the Burlington and Missouri Railroad.

Judge Hall died June 11, 1874.



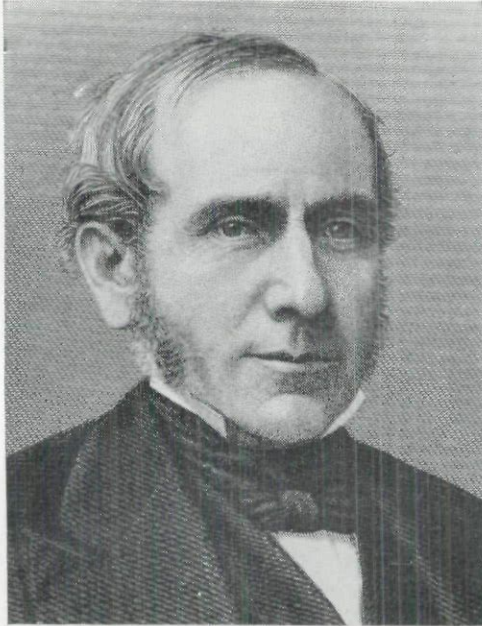
WILLIAM G. WOODWARD

Served on the Iowa Supreme Court from January 9, 1855, to January 11, 1860.

Born in Hanover, New Hampshire, in 1808. He was graduated from Dartmouth College with high honors. His father was defendant in the famous Dartmouth College Case, in the argument of which Daniel Webster won perhaps his greatest distinction as a constitutional lawyer. After his admission to the bar he formed a partnership with his cousin Benjamin R. Curtis who afterward went to the Supreme Court of the United States.

In 1839 he moved to Iowa locating at Bloomington, now Muscatine. Judge Woodward was one of the three commissioners who framed the Code of 1851, the others being Charles Mason and Stephen Hempstead. He was a member of the Ninth and Ninth Extra General Assemblies, but resigned before the close of his term to accept the position of Clerk of the United States Circuit Court.

Judge Woodward died February 24, 1871.



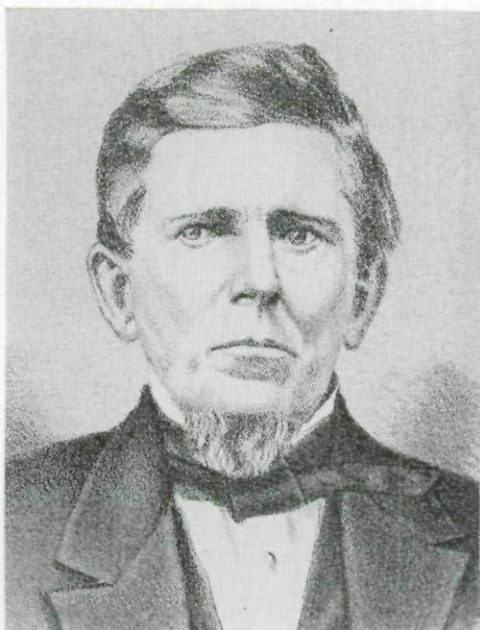
GEORGE G. WRIGHT

Served on the Iowa Supreme Court from January 11, 1855, to January 11, 1860; and again from June 26, 1860, when he was appointed to fill the vacancy occasioned by the death of Judge Lacon D. Stockton, until he resigned September 1, 1870. He was Chief Justice for seven years.

Born at Bloomington, Indiana, in 1820. He was graduated from Indiana University in 1839, and located the next year at Keosauqua, Iowa. He was a member of the Second and Third General Assemblies. In 1870 he went to the United States Senate for one six-year term.

In collaboration with Judge C. C. Cole, he established at Des Moines the first law school west of the Mississippi river. This school later became the Law Department of the State University. Judge Wright was a lawyer, judge, legislator, teacher, and business man. For many years he was a director of the Rock Island Railroad. He was president of the State Agricultural Society, president of the Polk County Savings Bank, and an organizer of the Pioneer Lawmakers Association. His brother was a Governor of Indiana.

Judge Wright died in Des Moines in 1896.



NORMAN W. ISBELL

Served on the Iowa Supreme Court from his election by the General Assembly January 16, 1855, until he resigned June 2, 1856.

Born in Charlton, Saratoga county, New York, April 7, 1818. After reading law in an office he was admitted to the bar in 1839. Because of ill health he decided to seek a home in the west, locating at Keytesville, Missouri in 1842, later moving to Marion, in Linn county, Iowa, in 1845.

His first public office was that of County Judge in 1847. His election to the Supreme Court came during a political reversal which completely changed the structure of the court. After a little more than a year however, he felt compelled to resign because of failing health. He returned to Linn county where in 1862 he was elected a Judge of the District Court. Soon however he was again forced to retire, migrating in 1864, to California.

While on the District Bench, he aroused much criticism by deciding adversely to the constitutionality of an act permitting soldiers of Iowa regiments, in the Civil War, to vote while beyond the limits of the state.

Judge Isbell died at Napa City, California, March 10, 1865.



LACON D. STOCKTON

Served on the Iowa Supreme Court from June 3, 1856, when he was appointed to fill the vacancy occasioned by the retirement of Judge Norman W. Isbell, until his death, June 9, 1860.

Born in Richmond county, Kentucky, in 1814. After acquiring his education in law he located in Burlington. For some time he was interested in publication of the Burlington Hawk Eye. He was Mayor of Burlington for two years in 1855 and 1856.

He was very active in public life in the early part of his career; but it has been asserted that his somewhat unpopular views, as to the long disputed Half-Breed Tract controversy in Lee county, prevented his preferment to public office. His friend and neighbor, Governor Grimes, however, appointed him to the Supreme Bench, where death terminated his career at the age of forty-six, being the first member of the court to die before retirement.



CALEB BALDWIN

Served on the Iowa Supreme Court from January 11, 1860, to December 31, 1863. For two years he was Chief Justice.

Born in Washington county, Pennsylvania, in 1824. Came to Fairfield in 1846 and was elected Judge of the District Court in 1856. In 1857 he moved to Council Bluffs. In 1865 he was appointed by President Lincoln to the office of United States District Attorney for Iowa. In 1874 he was one of the judges of the Court of Commissioners to hear the Alabama Claims arising from the action of Great Britain in outfitting a warship for the use of the Confederacy during the Civil War. As an outgrowth of the findings of this Commission, much of our present International Law dealing with the relationship of neutral nations and belligerent powers was evolved.

Judge Baldwin died in Council Bluffs in December 1876.



RALPH P. LOWE

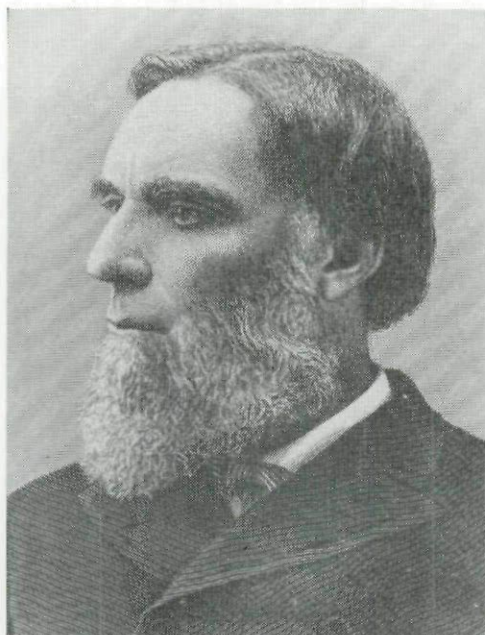
Served on the Iowa Supreme Court from January 12, 1860, to December 31, 1867. For four years he was Chief Justice.

Born November 27, 1805 in Warren county, Ohio. He came to Muscatine, then known as Bloomington, in 1838. He was a member of the Constitutional Convention of 1844 where he took a prominent part and exercised a controlling influence. He later moved to Lee county where he was elected Judge of the District Court to succeed George H. Williams who later became Attorney General of the United States. He was district judge for five years.

Judge Lowe is perhaps better known in Iowa history as Governor, being the only member of the Supreme Court in its entire history to achieve that distinction. He succeeded Governor Grimes and held the office for two years. The Indian disturbances in northern Iowa occurred during his term.

He was an active supporter of legislation for the advancement of public schools and an organizer of the State Orphan Asylum.

He moved to Washington, D. C. in 1874, where he died December 22, 1883.



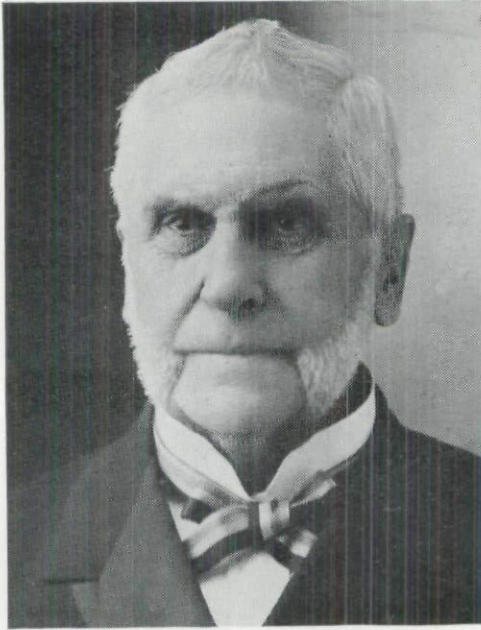
JOHN F. DILLON

Served on the Iowa Supreme Court from January 1, 1864, until he resigned December 31, 1869. For two years of this period he was Chief Justice.

Born in Herkimer county, New York, December 25, 1831, and came to Davenport in 1838 with his parents. He was graduated as a Doctor of Medicine in 1850 and practiced that profession briefly at Farmington in Van Buren county. He was admitted to the bar in 1852 and elected Judge of the District Court in 1858. In 1870 he became Judge of the United States Circuit Court for the eighth circuit.

Judge Dillon resigned in 1879 to become Professor of Law at Columbia University in New York and a lecturer at Yale. He was author of numerous law books that were universally accepted as authority, and was a member of L'Institut de Droit International. As a leader of the bar of New York he was regarded as one of the most profound jurists of the American bar.

Judge Dillon died in New York City, May 5, 1914.



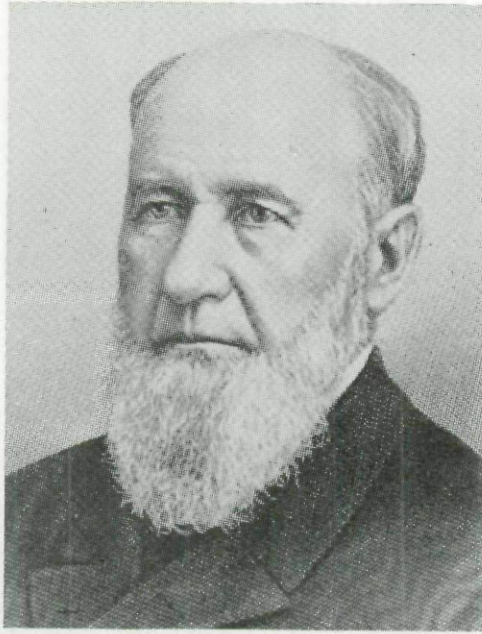
CHESTER C. COLE

Served on the Iowa Supreme Court from March 1, 1864, when he was appointed in compliance with a legislative act increasing the personnel from three to four members, until he resigned January 19, 1876. For one year of this period he was Chief Justice.

Born in Oxford, Chenango county, New York, June 4, 1824. He was graduated from Harvard Law School and located in Marion, Crittenden county, Kentucky, where he practiced law for nine years. He came to Des Moines in May 1857. Together with Judge Wright he established the law school that is now the Law Department of the State University, where he served as professor for ten years. Upon his return to Des Moines he established another law school, which in 1881 became the Law Department of Drake University. He continued as dean of this school until 1907.

Judge Cole continued in the active practice of law until he was eighty-nine years of age, a period of sixty-five years.

Judge Cole died in Des Moines, October 4, 1913.



JOSEPH M. BECK

Served on the Iowa Supreme Court from January 1, 1868, to December 31, 1891. For five years he was Chief Justice.

Born in Clermont county, Ohio, April 21, 1823, he was admitted to the bar in Indiana in 1846, and came to Montrose in Lee county, Iowa, the following year where he practiced law for two years. He then moved to Fort Madison where he continued to reside until his death.

Judge Beck and Judge Scott M. Ladd, who later came on the court, each served twenty-four years on the Supreme Court, a record which is the second longest in its entire history. Judge Beck wrote a leading case in Iowa involving the equality in civil rights and privileges of all persons before the law, unaffected by race, color, or previous condition of servitude. This decision is reported in Volume 37 of the Iowa Reports at page 145.

Judge Beck died at his home in Fort Madison, May 30, 1893.

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