

Third District Appellate Court



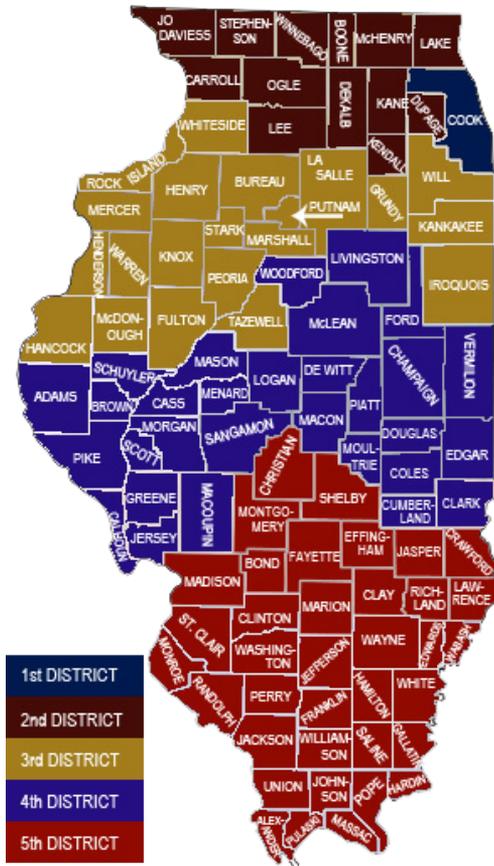
**1004 Columbus Street
Ottawa, Illinois 61350**

**815.434.5050
8:30-4:30 M-F**

Third District Appellate Court

The Illinois Appellate Court is a reviewing court that hears cases on appeal from decisions of the trial courts. The appellate court is the intermediate court between the trial courts and the Illinois Supreme Court and is divided into five geographical districts. Appellate courthouses are located in

Chicago, Elgin, Ottawa, Springfield, and Mt. Vernon. Separate appellate justices are elected in each of the five districts. They are chosen through popular election and serve ten-year terms. At the conclusion of the term, a justice is entitled to run for re-election on a non-partisan retention basis. The Third Appellate District sits in Ottawa. It includes 21 counties in central Illinois and such cities as Canton, Galesburg, Joliet, Kankakee, Morris, Ottawa, Pekin, Peoria, Princeton, Rock Island, and Sterling.



As reviewing courts, the appellate court justices review and read the record of the testimony that took place in the trial court; they consider the points of law involved; and they receive both written and oral arguments from the lawyers who are handling the appeal. Appellate courts do not have ju-

ries or witnesses testify before them. When the appellate court decides a case on appeal, it has several options: 1) it may affirm the case, meaning the decision of the trial court was correct and will stand; 2) it may reverse the case and send it back to the trial court for a new trial, or 3) it may reverse the case and enter judgment for the party who lost at the trial level.

Trial courts, whether or not involving a jury trial are presided over by a single judge. While trial judges carry the title of “Judge,” judges who sit on the Appellate and Supreme Courts are accorded the honorary title of “Justice.” Three justices sit on the appellate court, and at least two of them must agree in order for the court to reach a decision. Most decisions are unanimous. If only two justices agree on a ruling, they write a majority opinion. The third justice, who does not agree with the majority opinion, writes a dissenting opinion. While the majority opinion controls the decision in the case, the dissenting opinion serves to point out those parts of the ruling that the dissenter believes to be in error. The dissent is useful to highlight the differences of opinion in the event that the case is appealed further to the Illinois Supreme Court.

One type of case cannot be appealed. In a criminal case at the trial court, if the defendant has been found not guilty, that person can never be tried again for the same offense. This constitutional principle is called double jeopardy. No person may be placed in jeopardy twice for the same offense. This protection is provided by both the federal and the Illinois constitutions. Even if a prosecuting attorney believes that the acquittal was wrong, there is no further appeal. The case is finished once a defendant has been acquitted. A convicted defendant, however, has a right to appeal and to seek reversal of his conviction.

The constitution of 1870 provided for the establishment of appellate courts and on June 2, 1877, the General Assembly passed legislation to create such intermediate courts. Ottawa

was the seat of the Second Appellate Court District, which consisted of the counties that had comprised the Third or Northern Grand Division with the exception of Cook County. The Appellate Court and the Supreme Court continued to have sessions in Ottawa until 1897 when the Supreme Court consolidated in Springfield. After 1897, the historic courthouse at Ottawa was solely an appellate courthouse. The Appellate Court judges serving from 1877 to 1964 were circuit court judges appointed by the Supreme Court to sit as courts of review.

On January 1, 1964, the Illinois Constitution adopted a new judicial article. The Appellate Courts as reorganized under this new article were elevated to constitutional status with enlarged jurisdiction and separately elected justices. Ottawa became the seat of the Third Appellate Court District. From January 1964 to June 1966, the historic courthouse served both the Appellate Courts of the Second and Third Districts. The Second District Appellate Court judges moved into their new courthouse at Elgin when completed in the summer of 1966. The new Illinois Constitution of 1970 adopted the 1964 judicial article almost in its entirety and remains the authorization of the judicial system in Illinois today.

Oral arguments are scheduled each month at the Third District Appellate Courthouse in Ottawa. Oral arguments take approximately one hour per case and, on a normal court day, perhaps eight to ten oral arguments will be heard. These proceedings are open to the public and often attended by persons who are interested in a particular case or in a case being presented that affects the public at large. Information of dates and times for oral argument may be obtained from the Clerk of the Court or http://state.il.us/court/AppellateCourt/OralCal/3rd_Dist.asp.

The Courthouse

The Appellate Court Building in Ottawa was constructed to house the Illinois Supreme Court from the time the building was completed in 1860 until the consolidation of the Supreme Court in Springfield in 1897. In 1877, the Illinois legislature

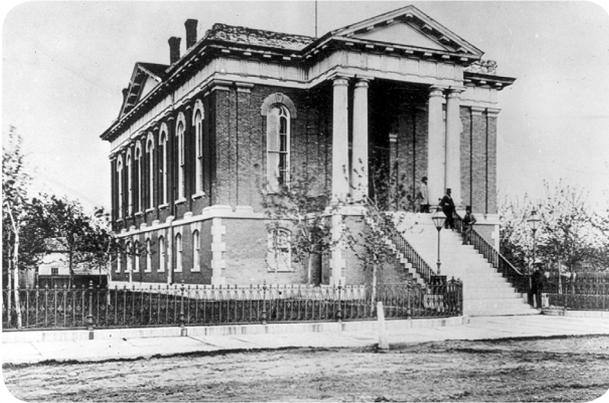


Photo courtesy of the Abraham Lincoln Presidential Library and Museum

organized the appellate court system, and the Supreme Court Courthouse in Ottawa was also used as an Appellate Court Courthouse. After 1897, it has

been exclusively used as an appellate courthouse. The National Trust for Historic Preservation has designated the building a historical site.

The Appellate Court Building for the Third Appellate District is located on the northeast corner of Lafayette and Columbus streets. It is surrounded on the west and south by a wrought-iron fence. The building is of the Greek Revival type of architecture, which is noted for its simple classic lines. While the structure is brick, native limestone tastefully adorns the exterior corners and was used to decorate as well as to support the building's many windows. Upon entering the building, expansive twenty-foot-high ceilings and the beautiful wide woodwork denote the importance of the building. Also impressive are the two interior walnut stairways located in the building. The courtroom contains a solid walnut podium and an intricately designed walnut bench, on the back of which are four interior columns. While no longer in use, the building was originally heated by fireplaces. The building used to have an

Eames were appointed Commissioners.

On March 19, 1857, the commissioners purchased the real estate upon which the courthouse was to be erected for \$5,000. The State of Illinois made an initial appropriation of \$16,000 for the construction of the building, and work began in May 1857. There is no record of an architect being employed to draft the plans for the building and oversee its construction. Josiah Pope of Ottawa was in charge of construction, and Thomas Miller completed much of the stone work. Bricks for the building were purchased from Chicago firms and transported to Ottawa on steam boats. In one example, on July 27, 1859, the "Steamer Abe" delivered 10,000 bricks to Ottawa at a cost of \$133.10. A lack of funds delayed the completion of the structure until the state legislature appropriated an additional sum of \$13,630 in February 1859. In April 1860, the Supreme Court Building was completed at a total cost of \$29,630.

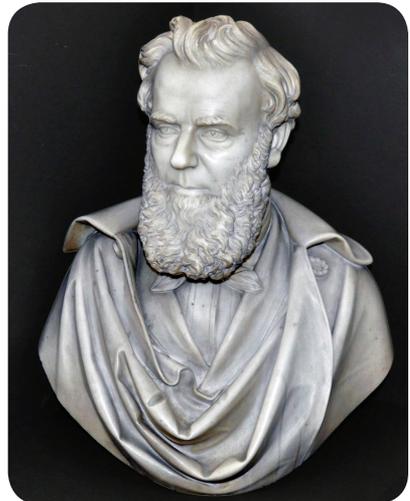
As completed, the courthouse was a two-story structure measuring 50 by 90 feet. The courtroom is on the second floor, and the first floor contains living quarters for the use of the judges when court is in session. In 1877, two wings were added: the north wing houses the law library with approximately 30,000 volumes currently, and the south wing contains the clerk's office and a conference room for the justices. In 1966, the building was redecorated and renovated at a cost in excess of \$60,000 or more than twice the amount of its original cost.

Vignettes

President Abraham Lincoln was shot on April 14, 1865, and died the following day. Previously, Lincoln had become a member of the Illinois bar in September 1836. Prior to becoming President, Lincoln had maintained an active and successful law practice and was a prominent member of the Illinois bar, handling more than 5,100 cases over the course of his twenty-five year legal career with more than 400 before the Illinois Supreme Court.

On May 3, 1865, the Supreme Court convened in the courtroom in Ottawa to conduct a memorial service for a man who was more than President Lincoln to them. The members of the court and the lawyers in attendance that day had known Abraham Lincoln as a friend and colleague both in and out of court. The proceedings that day have been memorialized in 37 Illinois Supreme Court Reports at pages 11 to 17. Fitting the occasion, the courtroom and the interior of the building were draped in mourning, and a portrait of the late President, entwined in evergreens and emblems of grief, hung over the bench.

At eleven o'clock, the court met, the full bench being present – Hon. Pinkney H. Walker, Chief Justice; Hon. Sidney Breese and Hon. Charles B. Lawrence, Justices. The court being opened, the Hon. John D. Caton, former Chief Justice, rose and addresses the gathering with remarks and reminiscences. Various resolutions were then presented, and the session closed after remarks by Justice Breese.



John D. Caton

The court then adjourned in order to permit those assembled to attend final ceremonies to be conducted in Springfield the following day upon the interment of the remains at the tomb.

Abraham Lincoln did not argue a case in the Supreme Court Building at Ottawa, but there is no question that he saw it while it was under construction since he was only 150 feet from it when he debated Stephen A. Douglas in Washington Park. Neither Lincoln nor Douglas was a stranger in Ottawa. Lincoln first made his appearance in the community when he was serving in the Black Hawk War. Both Lincoln and Douglas had made political appearances in Ottawa prior to 1858. In June 1851, Lincoln and Douglas were opposing counsel before the Supreme Court sitting in LaSalle County's third courthouse in the case of *Dunlap vs. Smith*. This case was heard by Justice Samuel H. Treat, Justice Lyman Trumbull, and Justice Caton. The court criticized the lawyers involved for not having prepared a proper record for the reviewing court and then reversed the trial court's decision, thereby making Lincoln the loser in this particular instance. Lincoln won a different case that same term, *People ex rel. Stephenson v. Marshall*, that declared an 1851 act of the Illinois legislature unconstitutional. When Lincoln wrote a fellow attorney about winning the case, he concluded his short letter by saying, "As the dutch Justice said, when he married folks "Now, vere ish my hundred tollars."

Throughout the years the courthouse was frequently used by the citizenry of Ottawa and LaSalle County for matters totally unrelated to the dispensing of justice. On April 14, 1862, the people of LaSalle County passed through it to view the remains of General William H. L. Wallace. Wallace, one of the commissioners for the erection of the courthouse, was a lawyer, veteran of the Mexican War, friend of Lincoln, and had he survived the Civil War may well have been acclaimed as the ablest civilian volunteer general of that tragic war. He was mortally wounded at the battle of Shiloh and his body was

returned to Ottawa to lie in state at the courthouse before his burial at the Wallace-Dickey Cemetery.

The courthouse was to enjoy gaiety and elegance on December 11, 1867, when socially prominent people from Chicago arrived in Ottawa to attend the wedding of Carrie Caton, daughter of Judge and Mrs. John D. Caton, and Norman Williams of Chicago. The groomsman for the bridegroom was Robert Lincoln, the son of the martyred president. Before the wedding party proceeded to the Caton mansion a reception was held in the historic courthouse.

Throughout the years there have been persistent rumors and hints that the courthouse on several occasions was used for grimmer purposes in that it was used as a place of rendezvous by the Knights of the Golden Circle during the Civil War. This organization was disloyal to the union cause during the Civil War.

The courthouse is not only steeped in history but it is also recognized as a classic example of the Greek Revival type of architecture. It continues to be the hub or center of a community that can proudly boast of many significant historical events. More than 150 years old, it continues to fulfill its purpose as a forum of justice.

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**Supreme Court Justices who presided in the courthouse
from 1860 to 1897:**

Constitution of 1848

John D. Caton, Ottawa

Sidney Breese, Carlyle

Pinkney H. Walker, Rushville

Corydon Beckwith, Chicago

Charles B. Lawrence, Galesburg

Constitution of 1870

Anthony Thornton, Shelbyville

John M. Scott, Bloomington

Benjamin R. Sheldon, Rockford

William K. McAllister, Chicago

John Scholfield, Marshall

Alfred M. Craig, Knoxville

T. Lyle Dickey, Ottawa

David J. Baker, Cairo

John H. Mulkey, Cairo

Damon G. Tunnicliff, Macomb

Simeon P. Shope, Lewistown

Benjamin D. Magruder, Chicago

Jacob W. Wilkin, Danville

Joseph M. Bailey, Freeport

Jesse J. Phillips, Hillsboro

James H. Cartwright, Oregon

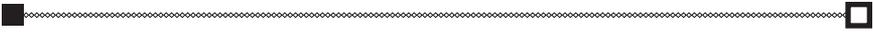
Joseph N. Carter, Quincy

Carroll Boggs, Fairfield

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Appellate Court Judges appointed to the Second Appellate Court District, pursuant to the provisions of the Constitution of 1870:

Edwin S. Leland, Ottawa
Nathaniel J. Pillsbury, Pontiac
Joseph Sibley, Quincy
George W. Pleasants, Rock Island
Lyman Lacy, Havana
David J. Baker, Cairo
William Welch, Carlinville
Clark W. Upton, Waukegan
C. B. Smith, Champaign
James H. Cartwright, Oregon
Oliver A. Harker, Vienna
F. M. Wright, Urbana
Dorrance Dibbel, Joliet
John D. Crabtree, Dixon
Harry Higbee, Pittsfield
George W. Brown, Wheaton
William M. Farmer, Vandalia
Alonzo K. Vickers, Vienna
H. B. Willis, Elgin
George W. Thompson, Galesburg
Morton W. Thompson, Danville
Charles Whitney, Waukegan
Duane J. Carnes, Sycamore
John M. Niehaus, Peoria
Oscar E. Heard, Freeport
Augustus A. Partlow, Danville
Norman L. Jones, Carrollton
Thomas M. Jett, Hillsboro
Franklin H. Boggs, Urbana
Fred G. Wolfe, Quincy



James S. Baldwin, Decatur
Franklin R. Dove, Shelbyville
Blaine Huffman, Lawrenceville
George W. Bristow, Paris
Ben F. Anderson, Charleston
DeWitt S. Crow, Springfield
Benedict W. Eovaldi, Benton
Clarence E. Wright, Carbondale
Dan H. McNeal, Moline
Roy J. Solfisburg Jr., Aurora
John F. Spivey, Danville
Samuel O. Smith, Girard
John T. Culbertson Jr., Delavan
A. J. Scheineman, Sterling
Burton A. Roeth, Canton

Appellate Court Justices elected or assigned to the Third Appellate Court District, sitting at Ottawa, pursuant to the provisions of the Judicial Article effective January 1, 1964 and the Constitution of 1970:

Jay J. Alloy, Peoria

Allan L. Stouder, Kankakee

John R. Coryn, Rock Island

Howard C. Ryan, Tonica

Albert Scott, Canton (assigned by Supreme Court)

Walter M. Dixon, Streator (assigned by Supreme Court)

Richard Stengel, Rock Island

Tobias Barry, Ladd

James D. Heiple, Pekin

William B. Wombacher, Peoria

John A. Gorman, Washington (assigned by Supreme Court)

Kent F. Slater, Macomb

Michael P. McCuskey, Washburn

Herman S. Haase, Naperville (assigned by Supreme Court)

Peg Breslin, Ottawa

Tom M. Lytton, Moline

William E. Holdridge

John F. Michela, Bourbonnais (assigned by Supreme Court)

Thomas J. Homer, Naperville

Judith E. Koehler, Peoria

Mary W. McDade, Peoria

Daniel L. Schmidt

Mary K. O'Brien, Essex

Robert L. Carter, Ottawa (assigned by Supreme Court)

Vicki R. Wright

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**Clerks of the Court who served in the historic courthouse
at Ottawa for the Supreme Court Constitution of 1848:** □

Lorenzo Leland, 1848 – 1867
Woodbury M. Taylor, 1867 – 1872
Constitution of 1870
Cairo D. Trimble, 1872 – 1878
Everell F. Dutton, 1878 – 1884
Alfred H. Taylor, 1884 – 1896
Christopher Mamer, 1896 – 1897

Clerks of the Appellate Court, Second District
James R. Combs, Ottawa, 1878 – 1890
Christopher C. Duffy, Plano, 1890 – 1920
A. E. Snow, appointed to fill vacancy of Christopher C. Duffy,
1920
Justus L. Johnson, Aurora, 1920 – 1956
Paul V. Wunder, Joliet, 1956 – 1964
Julius Richardson, Ottawa, appointed to fill vacancy of Paul V.
Wunder, 1964

Clerks elected or appointed after adoption of Judicial Article
effective January 1, 1964 and Constitution of 1970
J. Lindo Silver, Marseilles, 1964 – 1968
John E. Hall, Sterling, 1968 – 1976
Joseph Fennessey, Ottawa, 1976 – 1988
Roger H. Johnson, Ottawa, 1988 – 1992
Gist Fleshman, Ottawa, 1992 – 2014
Barbara A. Trumbo, Ottawa, 2014 –

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