

= Charles H. Constable =

Charles H. Constable (July 17 , 1817 ? October 9 , 1865) was an American attorney , Illinois State Senator , judge , and real estate entrepreneur . He was raised in Maryland and graduated from the University of Virginia with a degree in Law . After settling in Illinois , he married the oldest daughter of Thomas S. Hinde , a pioneer and real estate developer . Initially , he practiced law in Mount Carmel , Illinois , the town founded by Hinde . He managed the business and real estate affairs of his father @-@ in @-@ law until Hinde died in 1846 .

Later , Constable was active in Illinois politics and for a time was a close friend of Abraham Lincoln . During his life Constable was a one @-@ term Illinois State Senator , a delegate to the Illinois Constitutional Convention , and a one @-@ term Circuit Court Judge . One source described Constable at the time of the Matson slave case to be " the best educated lawyer at the bar . " He is most commonly remembered for his decision to allow four Union deserters to go free during the Civil War . This decision led to Constable 's arrest by Union military leaders and a trial in federal court . Constable argued that legal precedent supported his decision , and all charges were dropped in Federal court .

Following the dismissal of charges and his return to the bench , Constable and his family endured repeated threats , violence , and humiliation at the hands of partisan mobs angry at his release of the Civil War deserters . Not long after his release , Constable developed an addiction to morphine , then available over the counter . He died at the age of 48 from an overdose of the drug . One source stated the morphine overdose was a suicide . His wife , Martha Hinde Constable , died shortly after he did .

= = Early years = =

Charles Constable was born and raised in Maryland . He attended Bel Air High School , which was a scientific and classical school in Harford County , Maryland . Later he enrolled and graduated from the University of Virginia with high honors . In 1838 , he moved to Mount Carmel , Illinois , and shortly thereafter he married Martha Hinde . Martha was the daughter of Thomas S. Hinde , a noted attorney , Methodist minister , real estate entrepreneur , writer , and the founder of Mount Carmel .

Thomas S. Hinde died early in 1846 , followed soon by his wife . Martha and her husband took over the care of her younger orphaned siblings , Edmund , Charles , and Belinda Hinde . In the diaries of his nephew , Constable and his wife were described as good and honest people , and they cared for many relatives and friends in their household through the years . During this time , Constable practiced law in Mount Carmel , and sold town lots in Mount Carmel that had been owned by his father @-@ in @-@ law before his death .

After Hinde 's death , Constable quickly gathered all of his writings , diaries , business documents , and miscellaneous other items and donated them to Lyman Draper in 1864 , who was known for collecting the papers of figures of the Trans @-@ Allegheny frontier . Because of this donation , many scholars and historians have been able to study these papers . The Thomas S. Hinde documents are owned and kept at the Wisconsin Historical Society .

= = Early political career = =

For a short time after the death of Thomas S. Hinde , Constable remained in Mount Carmel with his wife and extended family . He was elected to the Illinois Senate in 1844 and was a delegate for Wabash County , Illinois , to the Illinois constitutional convention . As a member of the Illinois Constitutional Convention , he made substantial contributions during the negotiations and drafting of the Illinois Constitution . He was selected as chairman of the committee to prepare the address about the constitution to the citizens of Illinois . During this time , Constable and Lincoln became close friends ; Lincoln is quoted as calling Constable , " my esteemed friend . " In 1850 in Peoria , Illinois , Constable was elected Grand Patriarch of the Odd Fellows .

= = Matson slave case = =

In 1847 , Abraham Lincoln defended Robert Matson , a slave owner who was trying to retrieve his fugitive slaves . Matson had brought the slaves from his Kentucky plantation to work on land he owned in Illinois . The slaves were represented by Orlando Ficklin , Usher Linder , and Charles H. Constable . The slaves ran away while in Illinois and believed that they were free , knowing that the Northwest Ordinance forbade slavery in Illinois . In this case , Lincoln invoked the right of transit , which allowed slave holders to take their slaves temporarily into free territory . Lincoln also stressed that Matson did not intend the slaves to remain permanently in Illinois .

Even with these arguments , the judge in Coles County ruled against Lincoln , and the slaves were set free . This was part of a principle " once free , always free , " which was adopted in Illinois and other free states . One source described Constable at the time of the Matson slave case to be " the best educated lawyer at the bar . "

= = Attempted government appointments = =

According to one source , after Zachary Taylor was elected president in 1848 , Constable wrote to Lincoln and David Davis seeking a political appointment to a Latin American country as a chargé d'affaires , because of his growing family and declining law practice . Even though both Lincoln and Davis wrote letters in support of Constable , he did not receive any appointments . In January 1851 , Lincoln wrote a letter to Senator James Pearce recommending Constable be nominated for an Oregon federal judgeship . Constable was not gain this appointment .

Around 1848 , he moved with his family to Marshall , Illinois , and ran unsuccessfully for circuit court judge that same year . In 1858 , Constable ran in a special election to fill a vacant seat of the Illinois Supreme Court , but was defeated by Pinckney H. Walker by a vote margin of 229 votes to 95 . Constable ran again in 1861 and was elected as a state circuit court judge of the Illinois 4th circuit .

= = Change of political parties = =

Originally , Constable was a member of the Whig party , likely due to the close friendship of his father @-@ in @-@ law and Henry Clay . Due mainly to frustrations over how the Whig party had treated him , Constable decided to switch parties . He is quoted as saying , " that the party was dominated by old fogies who are indifferent to younger men . " His inclination toward the Democratic Party almost led to a fistfight between himself and Lincoln in a tavern in Paris , Illinois . Lincoln was quoted as saying , " Mr. Constable , I understand you perfectly , and have noticed for some time that you have been slowly and cautiously picking your way over to the Democratic party . " After this heated exchange , the men reconciled , but by 1856 Lincoln claimed that Constable had left the party . In 1858 , Constable was the Illinois elector at @-@ large for the election of President James Buchanan , a Democrat .

In 1861 , Constable was elected judge on the Democratic ticket of the Illinois fourth circuit . This led to a falling out between Lincoln and Constable . On several occasions while Lincoln was President , Constable repudiated him in front of large crowds . During a rally of more than 40 @,@ 000 people in Springfield , Illinois , Constable was elected to a leadership position of an organization set up to oppose Lincoln 's policies .

= = Civil War arrest = =

During the Civil War , Constable ordered that four Union deserters be released from military custody , arguing that the Union soldiers had no right to arrest the deserters in the sovereign state of Illinois . Shortly thereafter , Colonel Henry B. Carrington , commander of the Indiana Military District , was sent to Marshall . He arrested Constable , appearing while court was in session and surrounding the courthouse with over 200 Union soldiers . Carrington believed the Knights of the Golden Circle , a secret society said to be supporting the South , was responsible for the release of

the deserters .

Worried about potential violence , he believed that he needed the troops to support his rescue of the Union soldiers who had been ordered by Constable to be arrested for kidnapping the deserters . But , there was little to no resistance , and Constable invited Carrington to have dinner at his home before they left for Indianapolis . Constable 's arrest and ruling resulted in widespread condemnation ? even Richard W. Thompson thought Constable 's ruling was " illegal and arbitrary " ? and eventually led to his trial . After being heard by Judge Samuel H. Treat of the United States District Court for the Southern District of Illinois on April 7 , 1863 , Constable was released and the charges were dismissed . The case is still noted by legal scholars and historians as an example of the military interfering in civilian courts .

= = Treatment after dismissal of charges = =

After Constable was released from custody and returned to his home in Marshall , he was ostracized by many members of the public , who thought he had acted against the Union . One account states that Constable received death threats , threats to burn his house , and threats to kill his children . The arrest triggered a riot in Charleston , Illinois , commonly referred to as the Charleston Riot . During the riot :

[Two small boys] saw Judge Constable , white and trembling , in an angle of the wall in the alley to their right , evidently uncertain what to do or where to go next . How a man of his portly form could have vacated the Judge 's bench , come down from the court room , and got there so soon after the firing began never ceased to be a wonder to those boys .

In January 1864 , Union soldiers forced Constable under threat of violence to make an oath of allegiance to the federal government in Mattoon , Illinois . One source described the Union soldiers as a " mob " and stated that Constable " shed tears . " Another source stated that the soldiers violently dragged Constable off his wagon and humiliated him by making him kneel on the ground and swear his allegiance , and that these actions caused an eruption of violence in Mattoon the following day . After the Republican victories in the Illinois elections of 1864 , the legislature cut Constable 's judicial circuit from six to two counties in early 1865 . In the diaries of his nephew Edmund C. Hinde , Constable is described as an honest man with good character , and his opponents are called " cowards " who did not understand the circumstances of the events . According to historian David Williamson , Hinde 's argument supporting his uncle 's ruling has legal merit . He said that Chief Justice Roger B. Taney made a similar argument in Ex parte Merryman .

= = Death = =

During the Civil War , Constable became addicted to morphine , which was then available for sale over the counter in pharmacies . In Edmund C. Hinde 's diaries , Constable is described as a " slave " to morphine , and in one journal entry he is described as lying on the floor and talking like a child while on the drug . He died at the age of 48 from an overdose of morphine , while in Effingham , Illinois , in 1865 , on circuit duty as a judge . His wife died shortly after he did . One historian called it suicide . Another source described it in the following way :

He departed this life some years ago , and the manner of that departure I shall not dwell upon . It was sad , but not dishonorable ; and I do not believe that he left a single stain , blemish or blot upon his reputation ; and I now bid farewell to his memory .