

LINCOLN LORE

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LINCOLN'S SUPREME COURT APPOINTMENTS

The death of the chief justice of the Supreme Court, Fred Vinson, who passed away on September 8, creates a vacancy in what many authorities have designated as the most important appointive office in the nation. The American Bar Association has often referred to the seat as "The Great Post." It will be recalled that Abraham Lincoln was confronted with the task of filling the place made vacant by the death of Chief Justice Roger Brooke Taney. The appointment of Taney's successor and others named to the supreme court by Lincoln might be of special interest just at this time.

When Abraham was inaugurated there was already one vacancy in the Supreme Court caused by the death of Associate Justice Daniels of Virginia. One month later to a day Associate Justice McLean of Ohio passed away and within another month Associate Justice Campbell of Alabama had resigned because of his sympathies with the Confederacy. Lincoln was pressed to bring the court to its full strength immediately, but the reason for his failure to comply with public demand was presented in his message to Congress in December. He explained his action in these words:

"I have been unwilling to throw all my appointments northward, thus disabling myself of doing justice to the south on the return of peace." There can be no better evidence than this, of Lincoln's anticipation that there would be an early secession of hostilities.

The President soon observed, however, by the end of the year that peace was not so near at hand as he had anticipated. In January 1862, after an interval of ten months, he made his first appointment to the bench, Associate Justice Swayne of Ohio. The following July Associate Justice Miller of Iowa was nominated and as late as October, the third appointee Associate Justice Davis of Illinois was named. Seventeen months had elapsed between Justice Campbell's resignation and the naming of his successor. There had also been created in 1862 a new seat on the Supreme Court Bench in order that the western coast might have representation. Lincoln appointed Stephen J. Field of California to fill this new post.

The incumbent members of the court when Lincoln took office were Chief Justice Taney of Maryland, Justice Wayne of Georgia and Justice Catron of Tennessee, Justice Nelson of New York, Justice Grier of Pennsylvania and Justice Clifford of Maine.

The death of Chief Justice Taney occurred at the time of the October elections in 1864. Taney was eighty-eight years old and had served in his exalted position for twenty-eight years. His predecessor, Chief Justice Marshall, had occupied the chair for thirty-four years. The task of filling the office of a chief justice appointed by Andrew Jackson now evolved upon Lincoln. His political friends advised him to make his appointment before the November elections while he was still in office, but he could not be hurried with so important a task.

The fact that Taney was eighty-four years old when Lincoln came to the Presidency caused several ambitious men to look with longing eyes on the chair that they felt would soon be vacated by the aged Chief Justice. This caused, prematurely, a considerable amount of jockeying by the prospective candidates, that they might occupy favorable positions when the race for the seat actually started.

The opening of the Lincoln Papers at the Library of Congress has allowed us for the first time to thoroughly canvass the subject of Lincoln's choice of Taney's successor. The large number of candidates might be grouped as follows: provincial candidates nominated by the local press of many communities, friendship candidates proposed by those who could get the President's ear for a moment. A tabulated list gleaned from the Lincoln Papers contains the names of eighteen men recommended in letters written to the President. Of this number five were members at one time of Lincoln's cabinet and all were lawyers. Nine others were lawyers occupying judicial offices in the courts of their respective states, three were politicians and only one was an Associate Justice in the court.

A grouping of these candidates might place them in these four classifications: Cabinet members, an associate justice, judicial candidates and professional politicians. The last class would refer to those who had been inactive in their profession due to commanding political interests. One from each of these four groups seems to have come to the wire in the final heat with some promise of success. Large numbers of supporters were using every possible means to assure the victory of their favorite.

The cabinet member who received the most support but who was also most deeply despised was Montgomery Blair of Maryland. Edward Everett wrote an impressive and highly complimentary letter on his behalf. Almost the entire western bar was in favor of Associate Justice Swayne for advancement to the chief justiceship and his cause was ably championed by Associate Justice Davis of Illinois. Lincoln, however, had appointed Swayne to the court but a few months before. Members of the eastern bar lined up behind William M. Evarts of New York, one of the outstanding attorney's of the nation and thought by many to be the "ablest and best prepared man among all those mentioned for the place." The remaining member of the foursome was Samuel P. Chase, formerly a member of Lincoln's cabinet, but classified here among the professional politicians as he had practiced little or no law for many years. His candidacy was enthusiastically sponsored by Charles Sumner and a large contingent of leading New York financiers who a few months before had backed Chase for the Presidency.

A survey of the voluminous correspondence which the President received, with respect to the nomination, indicates clearly, that among all the candidates the great masses of people were for Chase, but his bitterest opponents however, were members of the bar. The contest finally simmered down to a final heat between the two Buckeye contenders, Justice Swayne having the backing of the professional men, and Chase the support of the politicians. One who reads the letters recommending Chase, written by many of the outstanding men of the nation, can readily understand why Lincoln appointed a candidate for whom he had no personal admiration. Possibly he was in agreement with Joseph Medill who wrote to William P. Dole and forwarded by Dole to Lincoln: "Chase is too valuable a man to have lying around loose and idle during the present critical crisis in resistance to the nation." The President appointed Samuel P. Chase the Chief Justice of the Supreme Court on Dec. 6, 1864.