

William P. Foster 1818-1819

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One of the first three Associate Supreme Court justices, William P. Foster had been in the state for only a few weeks at the time of his election to the bench. “He was a man of pleasing address,” wrote John M. Scott, “but artful and designing.”¹ In his history of the state, Thomas Ford described Foster as “a great rascal but no one knew it then.”²

Foster’s birth and death dates as well as information about his early life are unknown. He allegedly arrived in Illinois from Virginia without ever studying or practicing law. “The career of Foster affords a striking illustration of the possible success of a polished but unscrupulous adventurer, in a new country,” explained historian John Moses. “An entire stranger in the territory, a lawyer by neither profession nor practice, in a few weeks, through his plausible address and skillful manipulation of credulous members, he succeeded in capturing one of the highest judicial offices in the gift of the legislature.”³

Foster was one of nine candidates for an associate justice position. The legislature elected him and Thomas C. Browne on the first ballot with Foster winning twenty-six of the forty-one votes possible.⁴ With no apparent legal training, Foster failed to perform his duties. Fearful of exposing his incompetence, Foster never met with the Supreme Court justices, nor did he ever preside over his assigned Second Judicial Circuit comprised of Crawford, Edwards, and White Counties in southeastern Illinois near or along the Wabash River. In a letter from A. F. Hubbard to Elias Kent Kane, Hubbard noted that Foster had not held court in the upper counties of his circuit, and the citizens were quite angry. Hubbard later visited Foster in Vincennes, Indiana, and Foster

explained that the Wabash River was too high for him to cross and that one of his children had been sick.⁵

Described by Ford as “a man of winning, polished manners . . . a very gentlemanly swindler,” Foster resigned from the Supreme Court within a year on July 7, 1819, a week before the Court first met to organize. However, Foster “took care first to pocket his salary.” He left Illinois, “moving from city to city and living by swindling strangers and prostituting his daughters, who were very beautiful.”⁶

Scott blamed the “grave mistake” of Foster’s Supreme Court position on the legislative election of judges. Partisan political and personal considerations, Scott argued, took precedence over a candidate’s qualifications. Foster “never had any thing more than a mere nominal connection with the Court. His appointment is only mentioned as an historical fact to impress on the public mind the necessity for observing the utmost care and caution in choosing judges of the highest courts of the State — a lesson that should never be forgotten.”⁷

There is no known photograph or image of Foster, and the name of William P. Foster is not included on a tablet of justices displayed in the Illinois Supreme Court building.⁸

¹ John M. Scott, *Supreme Court of Illinois, 1818, Its First Judges and Lawyers* (Bloomington, IL: John M. Scott, 1896), 14.

² Thomas Ford, *A History of Illinois, From its Commencement as a State in 1818 to 1847* (1854, rpt. Ann Arbor, MI: University Microfilms, 1968), 14.

³ Quoted in John M. Palmer, ed., *Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1890), 20.

⁴ Illinois Senate Journal 1818, 18-19.

⁵ Solon J. Buck, *Illinois in 1818* (1917, rpt. Urbana: University of Illinois Press, 1967), 305.

⁶ Ford, 14.

⁷ Scott, 27-28, 33-34. The 1848 Illinois Constitution would provide for an elected judiciary.

⁸ Dan W. Bannister, *Lincoln and the Illinois Supreme Court* (Springfield, IL: Dan W. Bannister, 1995), 19.