

1860, 13,979; 1870, 25,314; 1880, 28,086; 1890, 30,003; 1900, 30,836; 1910, 35,311.

## RETROSPECTIVE.

When Montgomery County was organized in 1821 she had less than 500 inhabitants. She has grown steadily, but with no mushroom tendency. By 1832 our population had been somewhat increased, but was probably less than 2,000. Chaicage had had an existence as a government fort, but then had only about 250 people, but by 1838 she had 8,000 souls, and her future was assured. In 1837, Alton had 2,500; Peoria, 1,800; Beardstown, 1,000; Belleville, 700; Bloomington, 700; Vandalia, the state capital, 850; Graften, 500; Edwardsville, then a pretty old town, had only 400. Decatur then had 400. Charleston and Greenville, both then several decades older than Hillsboro, had only about 200 each. So that Hillsboro had as good chance to grow as any of those that did become great cities, so far as the matter of a good start was concerned. The growth of the county and state is shown forcibly in the changes in the congressional apportionment of the state. Prior to 1832 the whole state was one congressional district. During that year a congressional apportionment was made and the state divided into three districts. The second district consisted of seventeen counties of which Montgomery County was one. The second apportionment was in 1844, when the state was divided into seven districts. Our county together with six other counties constituted the third district. In 1852 the third districting took place and Montgomery County with nine others fell in the sixth district. Again a new apportionment was made in 1862, when the state was divided into nineteen districts, the tenth, being composed of Montgomery and nine other counties. The fifth apportionment was in 1882. There were twenty districts and this county and five other counties made up the seventeenth district. In 1893, the sixth apportionment was made; Montgomery with five other counties was put in the eighteenth district, there being twenty-two districts in the state. The seventh and last apportionment of the state was made in 1901, when the state was divided and our county, with three other counties, composed and now constitute the twenty-first district.

## CHAPTER VIII.

## COURTS, BENCH AND BAR.

COURTS NECESSARY — EARLY COURTS — COUNTY COURTS — THE COUNTY COMMISSIONERS — CIRCUIT COURTS — LITCHFIELD CITY COURTS — FORMER MEMBERS MONTGOMERY COUNTY BAR — FIRST LAWYER — MONTGOMERY COUNTY BAR AT PRESENT — THE LITCHFIELD BAR.

## COURTS NECESSARY.

Courts have in all stages of civilization been recognized as necessary for the settlement of disputes, and the protection of the rights of the weaker in judicial, and property matters. Lawyers, or pleaders at the bar, have been accepted by the public as unavoidable appendages to the orderly management of the affairs of court. The ambitious young man of the past thought that to study law and practice at the bar afforded him an opportunity to rise to positions of fame, and indeed it must be said that many of our brightest public men have come up from such training as is thus afforded. The really great men of history, however, have earned their renown by intrinsic merit which is not bestowed by profession, but is acquired by honesty of purpose and reliance on the principles of righteousness.

Some account of the county's courts and courtsmen will here be given.

## EARLY COURTS.

The Legislature of 1820-1 passed an act creating the County of Montgomery and appointing Melchoir Fogelman, James Street and Joseph Wright as a commission to locate the county site. The commissioners met at the home of Joseph McAdams, and after deliberation, a site was selected for the site on the Starr place, which they named Hamilton. Mr. D. M. Starr says that his father owned the land on which Hamilton was laid off, and that it was the tract just north of the Andrew Killpatrick place, now owned by the Helstons. The first term of the circuit court, as well as the commissioners court, was held at Joseph McAdam's residence and

was presided over by Judge John McReynolds, Hiram Rountree, clerk, and Joel Wright, sheriff. It is further stated in various records, that the first court of the newly organized county was held at the house of Joseph McAdams, near where Taylor Springs now stands, and that the meetings of the commissioners to relocate the county site were held at the house of Luke Lee Steel, also located near the site of Taylor Springs, until the building of the courthouse at Hillsboro. Judge Rountree having just located in the new county, was elected the first circuit clerk of Montgomery County, and on October 15, 1821, the first court was held in Montgomery County. It was conducted in the cabin of Joseph McAdams, which was 18x20 feet, Judge Reynolds presiding. Mr. Rountree kept the records on a table made of puncheons. The petit jury after hearing a case, would retire to the shade of adjacent trees to deliberate upon their verdict. During the following year the county ordered the building of a courthouse in the town of Hamilton, and the logs were hauled to that location. The Legislature which convened in 1823, however, changed the plans, by passing an act to relocate the county site, in compliance with the wishes of the majority, and appointed a new board of commissioners, composed of Elijah C. Berry, Silas L. Wait and Aaron Armstrong, and they selected Hillsboro, as related in another chapter. In spite of a change in the location of the county seat, the courts continued to convene at the homes of Joseph McAdams and Luke Lee Steel until the courthouse was built at Hillsboro.

#### COUNTY COURTS.

The county court has concurrent jurisdiction with the circuit courts in all cases of appeal from justices of the peace and police magistrates and in all common law matters where the value of property does not exceed \$1,000; concurrent jurisdiction with the courts of record in condemnation and special assessment cases; exclusive jurisdiction in voluntary assignments, release of insolvent debtors, trials for the right of property, commitment of insane and the support of paupers by their relatives; objections of the sale of real estate for the nonpayment of general or special taxes, are heard in the county court, and all inheritance taxes are levied and collected under its direction. The official bonds of most of the county and township officials and

the yearly reports of clerks, justices of the peace, states attorneys and other officers, of fees collected are subjected to the approval of the county court. The above gives in brief the duties of this court in Montgomery County, and from it may be easily ascertained how important it has always been to have men of the utmost probity on the bench. During the first several years of the county's history, the business which later devolved on the county court was performed by a board of three county commissioners, one of whom was commonly known as the judge, and the other two as associate judges. Their activities, however, seem to have been confined to the financial and probate affairs of the county, leaving criminal matters almost exclusively to the justices of the peace, and the circuit judges. These so-called judges were not attorneys and not possessed of extensive knowledge of law. They were fortunate, however, in having Judge Hiram Rountree, who had studied law and was well read in matters of legal procedure, as the clerk of the court during all of the county's early history.

We here give the names of those who served as county commissioners from the organization of the county down to the adoption of township organization.

#### THE COUNTY COMMISSIONERS.

The duties of the county commissioners court were supervisory and varied. They had charge of the elections selecting the judges and clerks, and determining the districts; they were in general charge of the highways, appointing local officers to look after their care; they cared for the indigent and needy, and provided homes for the homeless; they superintended the other officers of the county and appointed the jurors for the county and circuit courts; and had general charge over the probate and financial affairs of the county. Their duties were faithfully performed and their records ample, though rudely kept. The first board of county commissioners were John Beck, John McAdams and John Seward in 1821 and served one year. This board was followed by Newton Coffey, Harris Reavis and Richmond Baker in 1822. In 1823, James Wilson came into the board as the successor of Mr. Baker, the other two remaining on duty. In 1824, Samuel Parr, James Walker and Anthony Street constituted the board, two of these remaining in 1825, Mr. Parr being su-

perseded by James Williams. No change was made in 1826, and in 1827, Easten Whitten, Joseph Wilson and Jacob Cress were elected. In 1828, 1829 and 1830, the board consisted of William Griffeth, Joseph Williams, and James Bostick. In 1831, Lloyd Mortan succeeded Williams, the other two holding over. In 1832, Aaron Casey, Thomas Mann and John Meichenheimer assumed the positions, being succeeded in 1834 by Richard Bradley, William Griffeth and Joseph Williams. In 1836, Jacob File, James Wilson and John Meichenheimer constituted the board. In 1838, Thomas Jones, William McDavid and James Wilson are recorded as acting; Mr. Wilson was superceded in 1839 by Andrew Burk. In 1840, D. D. Shumway succeeded Mr. Wilson with no other change till 1843, when we find Israel Fogelman as the successor to Mr. Shumway, and in 1844 Spartan Grisham and Amos L. Clotfelter with Israel Fogelman performed the duties of the office. In 1845, there was no change except that Alfred Bliss came on as the successor to Mr. Clotfelter. In 1847, Bazzle Hill succeeded Mr. Grisham, and in 1850 Joseph H. Rolston was elected county judge with Austen Whitten and Eli Deshane as associates, the term commissioners being by this time almost obsolete, the officers being known as judges. Judge Ralston resigned in 1852, and E. Y. Rice succeeded to the judgeship. In 1853, Hiram Rountree succeeded Mr. Rice with Jefferson Lynn and Robert Terry as associates. In 1854, Stephen R. Briggs succeeded Mr. Terry with no other change till 1862, when John T. Beckham succeeded Mr. Lynn as associate judge. In 1866, J. C. Hanner and William Fitzjerrell were elected as associate justices and served till in 1870, when Edward Lane was elected county judge with William Chapman and J. Bowers Lane as associates. These continued till 1874, when township organization being adopted the functions of the commissioners devolved on the board of supervisors and the commissioners court became a thing of the past.

#### CIRCUIT COURTS.

The circuit court has jurisdiction, concurrent with the superior court in all cases of law and equity and in appeals from inferior courts. Under our present laws, the state is divided into several judicial districts, and Montgomery County is in the fourth district, comprising nine counties. Each district elects three judges, who

prorate the terms in the counties according to their conveniences. Under this system a county may or may not have representatives on the circuit bench. Those who have been honored with positions on the circuit bench from Montgomery County, and the years when elected have been: E. Y. Rice, 1857, 1861, 1867, 1870; Jesse J. Phillips, 1885 and 1891; Thomas M. Jett, 1909 and 1914. The term is six years.

#### LITCHFIELD CITY COURT.

The jurisdiction of the city courts of any municipality is as follows: All action on contracts where the amount claimed by the plaintiff exceeds \$1,000; all actions for the recovery of personal property, the value of which exceeds \$100; all action for the recovery of damages for the conversion of personal property when the amount sought to be recovered exceeds \$1,000; criminal cases of the grade of felony, except treason and murder, and cases of habeas corpus; civil actions for the recovery of money, only when the amount does not exceed \$1,000; actions for the recovery of personal property when the amount does not exceed \$1,000; actions of forcible detainer; actions and proceedings over which justices of the peace have jurisdiction and actions not otherwise provided for by the act; quasi-criminal actions; proceedings for the prevention of crime; for the arrest, examination and commitment of persons charged with personal offenses; proceedings involving the use of search warrants.

In March, 1898, after a favorable vote held for the purpose, the city municipal court of Litchfield was duly organized, with Col. Amos Oller as judge, and Hugh Hall as clerk. Judge Oller held the judgeship for four years, and in 1902, was superseded by Judge Paul McWilliams, who held the office for twelve years. In 1914, Daniel W. Maddox was elected city judge to succeed Judge McWilliams, who did not desire re-election. Mr. Hall continued as clerk of the court for eight years, being superseded in 1906 by Mrs. Louretta Salzman, who is still holding down the office. The court has never had a large amount of legal business to adjudicate, but seems to give satisfaction to the citizens of Litchfield. The sheriff has charge of the court the same as the circuit court in the county seat. The court holds its grand jury sessions, the same as the circuit court, and the jurors are selected in the same manner. Those who

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have filled the positions of judge and clerk of this court have given a critical public entire satisfaction.

## FORMER MEMBERS MONTGOMERY COUNTY BAR.

From the very beginning of its history, Montgomery County has had its distinguished members of the legal profession, and among those whose names have come down to the present generation, as good examples of high standard in legal knowledge, and adherence to the ethics of this calling, and who have retired, died, or removed, may be mentioned the following:

Robert W. Davis, died; James M. Davis, died; Elizur Southworth, retired; George W. Paisley, retired; Robert McWilliams, died; Edward Lane, died; George L. Zuik, died; Jesse J. Phillips, died; James M. Truitt, died; George Pepperdine, removed; George M. Stevens, removed; Thomas Rutledge, died; W. T. Coale, died; William D. Shirley, died; Amos Oller, died; M. M. Creighton, died; W. H. Howett, died; Emilo Ferrio, removed; Ben McWilliams, removed; C. K. Sherman, removed; H. H. Willoughby, removed; Wm. Todd, died; E. A. Cress, removed; Geo. R. Cooper, died; T. A. Gasaway, removed; Harry Phillips, removed; P. A. Wilhite, died; D. H. Zepp, died; Ben. E. Johnson, died; A. N. Kingsbury, died; Robert Christian, died; Wickliff Kitchell, died; John W. Kitchell, removed; E. Y. Rice, died; Mr. Hearford, removed; Mr. Dougherty, removed; Geo. W. Scott, removed. There were others whom we do not readily call to mind.

## FIRST LAWYER.

It may be interesting to know that the first lawyer to settle permanently in Montgomery County was Joseph Fisk, who located in Hillsboro in quite an early day, and boarded at the Blockburger Tavern, the old brick house where Warren Neff now lives. He was elected a justice of the peace, and also was honored with a term in the State Legislature, thus setting the example to the succeeding members of the bar to try to break into the Legislature about as soon as they get their legal diploma, a precedent which has been pretty closely followed to this day.

Judge Hiram Rountree did not receive his right to plead at the bar till 1840, and when he died in 1873, he was the senior member of

the Montgomery County Bar. The first case ever set for trial in the county was that of Barnabus Mitchell against Jesse Johnson, and the case was dismissed at plaintiff's cost. The second case called was John Meisenheimer versus Phillip Row, for assault and battery, and this, like the case above, was continued, thus setting another precedent of court practice.

The first case really tried was that of William C. Robinson versus Gordon B. Crandall. The case was a jury trial and lasted three hours, not three days or more as is generally the custom now. It may be consoling to our present clerks of court to know that the fees of Judge Rountree for the first eighteen months of clerking for the circuit court of Montgomery County, came to exactly eighteen dollars, or twelve dollars a month.

## MONTGOMERY COUNTY BAR AT PRESENT.

The present members of the Montgomery County bar are as follows: William Abbot, Hillsboro; James Atterbury, Litchfield; C. W. Bliss, Hillsboro; Joseph M. Baker, Hillsboro; J. T. Bullington, Hillsboro; McLin J. Brown, Hillsboro; John L. Dryer, Hillsboro; L. V. Hill, Hillsboro; Thos. M. Jett, Hillsboro; H. L. Jackson, Litchfield; Ed. Kaburick, Hillsboro; S. W. Kessinger, Litchfield; D. R. Kinder, Litchfield; Guy C. Lane, Hillsboro; Robert Ludewick, Witt; M. J. McMurray, Hillsboro; Russell McDavid, Hillsboro; J. K. McDavid, Hillsboro; J. T. McDavid, Hillsboro; Amos Miller, Hillsboro; Paul McWilliams, Litchfield; Rice Miller, Hillsboro; J. Earl Major, Hillsboro; Dan Maddox, Litchfield; H. C. Miller, Nokomis; Geo. P. O'Brien, Litchfield; Zeno J. Rivers, Litchfield; Frank Ramey, Hillsboro; J. H. Ragsdale, Hillsboro; Harry Stuttle, Litchfield; H. S. Sawyer, Hillsboro; Wm. G. Webster, Nokomis; Jefferson D. Wilson, Nokomis.

## THE LITCHFIELD BAR.

As the editor is not well informed as to the early attorneys of Litchfield, we are permitted to use the following article written by Hon. S. W. Kessinger of the Litchfield bar.

"Why, I know not, but I have never seen anything in print about the lawyers, past and present, of Litchfield.

"Thos. Marron seems to have been the first disciple of Blackstone to flaunt his shingle to

the pioneer breezes. I have been unable to learn from whence he came, how long he remained, and whither he departed. He must have been here for several years, however, as Hon. E. Southworth, who came here in 1859, remembers him quite well.

"In 1858 B. M. Munn came, and lingered here until the Civil War broke out when he organized a company and went to the front. He afterwards located at Cairo. Major McWilliams came from Hillsboro in 1865 at the close of the war, and the following year brought George L. Zink, a native of Steubenville, Ohio. George P. Fowler came about the same time, and remained until his death. A cold marble slab in Elmwood cemetery will give further information. 1869 brought George Talley, who practiced here for a while, and then returned to his old home in Delaware. R. M. Lay came next and practiced until his death a few brief years later, as a partner of Major McWilliams.

"In the late Seventies, probably 1879, Louis Allen came here from Carlyle. He served from 1884 to 1888 as States Attorney, and was elected to the office of County Judge in 1890 and served until his death the following summer. In the early Eighties, James H. Atterbury was graduated from the law department of the University of Michigan and began the active practice as a member of the firm of Southworth & Atterbury. He is still in harness.

"George W. Jones came in the middle Seventies and, from 1878 to 1881, served as city clerk, paying little, if any, attention to law. He departed suddenly in 1881, after some trouble with the city council concerning finances.

"In 1885 Wm. Pearman, who had taught school in the north part of the county for a number of years, was admitted to the bar and began to practice as a member of the firm of Allen & Pearman. He was elected to the office of States Attorney in the fall of 1888, but died of typhoid fever, without qualifying, in December of that year. About the same time Pearman began to practice, Joseph E. Paden began as a member of the firm of McWilliams & Paden. He later opened an office of his own, but in 1889 went to Chicago where he is still practicing.

"The spring of 1889 marked an era of great prosperity in Litchfield. The Planet Mills and the Litchfield Car Works were running full blast, and the building of the present Fifth ward schoolhouse started a building boom in the northeast part of town, which at that time was

called Oklahoma on account of its rapid growth, and for the further reason that the present state of that name was thrown open for settlement that year. Col. Amos Oller came from Staunton on the crest of the boom and practiced until his death a few years ago.

"The year 1890 brought a new crop of lawyers. Attorney Potts, of Taylorville, formed a partnership with E. Southworth, but remained here but a short while. M. M. Creighton came from Taylorville, John P. Gardner from Hillsboro, and Douglas Temple from Nokomis. Creighton has been dead for more than five years, Gardner is in California, and Temple in East St. Louis. In the same year David R. Kinder was admitted to the bar and formed a partnership with George L. Zink, which was terminated by the latter's death in August, 1902. Gilbert P. Randle was a partner of Mr. Zink's for a short time before Mr. Kinder, but returned to his first profession, that of school teaching.

"Then in rapid succession came Ben McWilliams, now of Chicago, Paul McWilliams, the writer, P. A. Wilhite (died in March, 1904), Zeno J. Rives, Harry Phillips, as a partner for a short time with Major McWilliams, T. A. Gasaway, now of East St. Louis, Harry Stuttle, George P. O'Brien and Harry Ballard, now of Oklahoma City, Okla.

"Judge Dan W. Maddox came from Hillsboro in the spring of 1910, and the last arrival was H. L. Jackson, who hung out his shingle the latter part of January, 1914.

"The practicing lawyers of Litchfield at present are: Jas. H. Atterbury, David R. Kinder, Paul McWilliams, Harry C. Stuttle, George P. O'Brien, Dan W. Maddox, H. L. Jackson and S. W. Kessinger. Zeno J. Rives is postmaster, and E. Southworth has retired.

"L. E. Wilhite came from Hornsby about four years ago, but worked for the Lincoln Fraternal Union, paying but little attention to the law. Hon. Geo. W. Paisley has resided here for several years, but to the best of our knowledge has not practiced his profession in this city.

"In the early Seventies my father resided but one block from a jaunty, jovial man, whose laugh was contagious, and one whom I remember quite distinctly. I afterwards knew him personally and learned his worth to his community. That man was none other than Major Robert McWilliams. In this article I must give credit to Charles W. Bliss, of Hillsboro, who was acquainted with Major McWilliams as a lawyer

for almost forty years. Mr. Bliss, in an article written at the time of the Major's death in December, 1910, said:

"Major McWilliams was the Nestor of the Montgomery county bar and for more than thirty years was one of the leading lawyers in this part of the state. He was a sound lawyer and an eloquent advocate, and when we remember that he was contemporary in the practice with such legal luminaries as Judge Jesse J. Phillips, Judge E. Y. Rice, J. M. Truitt, George L. Zink, and others, both living and dead, and that he was the peer in his palmy days of any of them, we realize that in the death of Major McWilliams, a great lawyer has passed away."

"Mr. Bliss further says: 'In the summer of 1862 Mr. McWilliams had printed and distributed hand bills urging men to enlist in the cause of the Union. He hired a wagon, secured a fife and drum, and travelled from place to place making speeches asking for volunteers. Three companies were raised through his efforts, and they went into camp at Camp McWilliams at Hillsboro. He was elected captain of Company B, 117 Illinois Volunteer Infantry. He came home from the war a Major, and shortly afterwards came to Litchfield.

"Major McWilliams formed several partnerships during his practice, among them being McWilliams & Sturgess, Southworth & McWilliams, McWilliams & Talley, McWilliams & Lay, McWilliams & Paden, McWilliams & Son (the son being Attorney Ben McWilliams, now of Chicago), McWilliams & Phillips (Attorney Harry Phillips, formerly of Hillsboro, now of Chicago), and McWilliams & Son, the son this time being Judge Paul McWilliams, one of our prominent attorneys at this time.

"Politically, the Major was a Republican. He served several terms as city attorney. In 1880 he was elected minority representative from this district to the legislature. Mr. Bliss says: 'He introduced in the winter of 1881 the bill known as the "anti-pooling" bill, prohibiting railroads from combining to keep up freight and passenger rates. From this idea our Federal Interstate Commerce law was formed.' He had gained such prominence in his party at that time he was selected as the forlorn hope to attempt the defeat of W. A. J. Sparks, one of the brilliant democratic congressmen of that day. The district was not properly constructed for that purpose, and 'Jack' Sparks was pretty well known throughout the district.

"Mr. Bliss continues: 'The writer has watched him in cases of immense importance to his clients, and has been amazed, not only at his knowledge of the technicalities of the law, but at his wonderful versatility and his quickness to take advantage of every point that appeared favorable to his side. During the period between 1870 and 1898 he was on one side of every important case, and a history of the fierce legal combats he had during those years with Judge Phillips, Judge Rice and Judge E. Lane of this city (Hillsboro) would make interesting reading.'

"The Major was born in Ohio, learned the tailor's trade, studied law while working at his trade, and was admitted to the bar in that state. He practiced first in this state at Bloomington, then at Sullivan, Shelbyville and Hillsboro, before permanently locating in Litchfield. Such was Major McWilliams, one of the leading attorneys of central Illinois for more than a quarter of a century. We would say more if space would permit. He is survived by two sons, as noted herein."

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## CHAPTER IX.

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### THE MEDICAL AND DENTAL PROFESSIONS.

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PUBLIC NEEDS THE PROFESSIONS—PIONEER PHYSICIANS—PHYSICIANS OF LATER DATE—MONTGOMERY COUNTY MEDICAL ASSOCIATION—DR. AMOS SAWYER—REVIEW OF MEDICAL HISTORY—DENTISTS—OTHER HEALTH PRESERVERS.

#### PUBLIC NEEDS THE PROFESSIONS.

No community can dispense with the services of the well trained men and women who devote their skill and energies in the above named professions, and thereby relieve the distresses and aid nature in her efforts to restore the normal functions of the human body. Nor would any history of the county be complete that did not give some account of these public servants, and recognition as well as commendation of the ability and skill of these necessary agencies in

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