

Judge Louis FitzHenry (1870-1935)

Louis FitzHenry was born in Bloomington on June 13, 1870. He was the oldest son born to Hiram and Elizabeth Johnson FitzHenry. The family lived at 319 East Locust Street. His father Hiram was a farmer and flour miller who came to Bloomington from Ohio.

Louis was energetic and ambitious at an early age. He was educated in Bloomington public schools and graduated from Bloomington High School in 1888. While he was going through school, one of his jobs was lighting gas street lamps for the city of Bloomington. He would light them at sundown and put them out again at midnight. On top of this work he also sold newspapers on street corners for one of the local newspapers, the *Daily Bulletin*.

From this early job as a newspaper carrier Louis became interested in the newspaper business. While he was in high school, he also was a correspondent for the *Daily Bulletin*. After he graduated he began to work in the newspaper business full time. He was employed by the *Daily Bulletin* and later the *Sunday Eye* where he was the circulation manager. Later he went on to become the editor and eventually advertising manager of a local Republican newspaper, *The Leader*.

In 1895, Louis had decided to study law and enrolled with the Law Department at Illinois Wesleyan University in Bloomington. While attending IWU he became a member of the Phi Alpha Delta legal fraternity. He also continued to support himself through law school by working in the newspaper business. He bought a local labor newspaper, the *Trades Review*, which was a weekly labor newspaper that was the organ of the Trades Assembly in Bloomington. Louis edited and managed this newspaper. After two years of study, Louis graduated from IWU in 1897. The commencement exercises were held at the Grand Opera House in Bloomington and Louis graduated with twenty-four other students.

He was admitted to the Illinois Bar Association in June 1897 just a short time after he graduated. During this time he also continued working in the newspaper business, this time for the *Daily Pantagraph*. By 1900 he had opened his own law practice in Bloomington and he formed a partnership with another local attorney, Lester H. Martin. Their law office was located on the second floor of the Unity Building, located in downtown Bloomington.

The Great Fire of 1900 in downtown Bloomington completely destroyed their office. The Great Fire occurred on June 19, 1900. It broke out on the second floor of the Model Laundry in the 100 block of East Monroe Street. The fire quickly spread to the surrounding buildings and came to consume several blocks of buildings including the McLean County Courthouse. FitzHenry reopened his offices as soon as the Unity Building was rebuilt after the fire. In 1918 on the 18th anniversary of the Fire, FitzHenry gave a speech at the dedication of the placement of a tablet marking the place where the Great Fire began. In his speech he stated that while the “efforts of a generation were gone in an instant- but from the gray ashes was heroically builded a bigger and better Bloomington” and that the spirit of Bloomington had been “purified by fire” leaving the city even greater than it had been before.¹

¹ “Speech on anniversary of the Great Bloomington Fire, 1918.” Personal papers of Louis FitzHenry, Illinois State University Archives.

FitzHenry was an ardent supporter of the Democratic Party his entire life. In 1907 FitzHenry ran for the office of City Attorney on a platform based upon the right of public utilities to occupy the public streets without compensation. His campaign was successful and he was elected as City Attorney of Bloomington on the Democratic ticket. Lester Martin, who had been FitzHenry's law partner for many years, wrote a letter about the career of FitzHenry a short time after his death, saying that "Bloomington has always been a very strong Republican city, claiming to be the birth place of the party, so the success of the young democrat was a great victory and probably started him on his very busy, successful and honorable public career."² He was re-elected to this office again in 1909 and served until that term ended in 1911.

During his second term as City Attorney Louis surprised everyone by getting married. Most of his friends and family had given up on him ever marrying believing that he was a confirmed bachelor for life. However, in 1909 he married Lottie B. Rankin, daughter of Thomas Rankin of Normal. They were married in a quiet ceremony at the home of Lottie's parents in Normal. When they first married, they settled in Louis's family home located on Locust Street. They would then live at several other addresses in the White Place area. They would always call McLean County their home no matter where his job took him. They had three children; a son Louis who died in infancy, and two daughters; Charlotte Louise and Mildred.

FitzHenry also ran for other political offices. In 1910, he was the Democratic candidate for Congress against the Republican incumbent John A. Sterling for the 17th District in Illinois. During one of his campaign speeches FitzHenry attacked Sterling's record saying that his record was one of faithful service to "not the republican party, nor the people," but to special interest groups of a select few individuals. He also expounded on the fact that Sterling had voted for legislation that would hurt workers and the people in general such as voting to repeal the eight hour day law in the Panama Canal Zone. Regardless, FitzHenry was defeated by Sterling who had been a congressman for many years. In 1912 when FitzHenry ran against Sterling again he was successful and became a member of the 63rd United States Congress. While serving in Congress, he was a member of the committee on Judiciary of the House which was active in preparing legislation during President Woodrow Wilson's administration. This legislation included the Clayton Anti-Trust Act, the Federal Trade Commission Act, the Federal Reserve Act, and the Underwood Act which strengthened the American Merchant Marines. He ran for re-election in 1914 but was defeated. He then returned to Bloomington and resumed his private law practice.

From his early days as editor and manager of the *Trades Review* newspaper FitzHenry would continue to be a great supporter of labor and the working man throughout his life. In 1913 while serving in Congress there was the threat of a strike by conductors and trainmen of the railroads in the Eastern Division. These men were demanding an increase in their wages which the railroads kept refusing on the grounds that wages had just been increased in 1910. The railroads also continued to decline to submit to arbitration under the guidelines of the Erdman Act of 1898. The Erdman Act set stipulations where the railroad and railroad workers would voluntarily submit to a third party arbitration to settle a dispute. If the two parties could not agree on a third

² Lester Martin. "Louis FitzHenry," presented before the Bloomington Bar Association on January 1936. McLean County Historical Society Archives.

party, the federal government would step in to select the arbitrator. FitzHenry was in favor of amending this act by creating a board of arbitration that would be supervised by the federal government in the hopes that those members of the board would not be influenced by either the railroads or the unions. FitzHenry hoped that this amendment to the act would not only encourage the railroads to work with the unions to find a compromise, but also hoped that it would prevent strikes as well.³

FitzHenry was also involved in a number of legal organizations. He was a member of the Order of Coif, the McLean County Bar, Chicago Bar, the Illinois Bar, and the American Bar Associations.

In June of 1915 he tried to re-enter the political arena as the Democratic candidate for Justice of the Supreme Court of Illinois but was defeated again by the Republican incumbent. However this would not stop him from his political pursuits.

His activities as a member of the U.S. Congress drew the attention of President Wilson whom he greatly admired and supported. Upon the death of Judge J. Otis Humphrey of Springfield who was the U.S. District Judge of the Southern District of Illinois, President Wilson appointed FitzHenry to replace Humphrey on July 1, 1918. He would serve in this capacity for the next fifteen years. It was in this position where FitzHenry would distinguish himself and “display his ability as a student capable of understanding and administering the law.”⁴

Becoming a judge at the end of World War I, the beginning of Prohibition, and during a period of great railroad labor strikes left him quite busy with the ever increasing load of litigation flowing through the courts. While he did deal with a variety of cases during his time as a federal judge, the bulk of the cases he dealt with most likely were involved with violations against National Prohibition. Prohibition, or the 18th Amendment, was passed in 1920 and outlawed the manufacturing, transportation, importation and sale of liquor. Examples of how many court cases involving Prohibition FitzHenry dealt with can be found in the pages of the *Daily Pantagraph*. In 1925 the *Daily Pantagraph* reported that FitzHenry had convicted 142 of 191 defendants brought before him from February 2 to February 13 of that year most of which were violations against National Prohibition. In March of that same year it was also reported that 239 of 279 defendants who were charged with liquor violations were convicted.

Through his work as a federal judge FitzHenry began to create a national reputation for himself in his “fearlessness in handling federal cases” that were brought before his court especially those dealing with Prohibition.⁵ Because Prohibition was a constitutional amendment, FitzHenry, like any other government official or law enforcement officer, was sworn to uphold it no matter what his personal feelings were towards the 18th amendment. FitzHenry was particularly hard on officials who broke their oath to uphold the U.S. Constitution. In 1929 FitzHenry proposed a plan that would punish those officials who violated Prohibition more harshly than they had been in the past. It was

³ Speech before the House of Representatives on the Erdman Act, 1913-1914, Papers of Louis FitzHenry, Illinois State University archives

⁴ Lester Martin. “Louis FitzHenry,” presented before the Bloomington Bar Association on January 1936. McLean County Historical Society Archives.

⁵ “Heavily Fined By FitzHenry,” *The Daily Pantagraph*, April 13, 1923

FitzHenry's opinion that "the chief trouble with prohibition enforcement has been the almost total lack of co-operation on the part of the law officers of the several states."⁶

FitzHenry also gave numerous speeches on upholding Prohibition based on the fact that it was a Constitutional amendment. In one particular speech given to the Peoria Bar Association in 1927, FitzHenry pointed out that while there were many people across the country who were calling for the repeal of the 18th Amendment, the federal government was not at fault for the passage of Prohibition. "Congress simply proposed the amendment and it was almost unanimously ratified by the several states. The ratification of this amendment adopted a principle and authorized concurrent action of the Congress and the several states to enforce this principle. So whatever invasion of states right the 18th amendment involves on the part of the Federal Government, it is a deliberate, well-known grant of power to the Federal Government by the several State Governments of the sovereign states."⁷

Because of his successful record as a federal judge, he was sent to New York City at the request of Chief Justice Taft to help quell the growing criminal dockets, most of which were violations against National Prohibition. He felt it was his duty as a federal judge to go to New York City and serve and stayed there from June to August 1923. FitzHenry spoke about his experiences in New York when he returned to Bloomington. He stated that before his service began, the "last 14 trials of prohibition cases had resulted in verdicts of not guilty which were very promptly returned by the juries." Even his first three cases ended in not guilty cases regardless of the overwhelming evidence against the defendants. FitzHenry took it upon himself to educate the members of his juries informing them that it "was their duty to accept the law as it was given to them regardless of whether it pleased or displeased them, or whether or not it was in harmony with their own personal views on the prohibition question."⁸ It was from that point on that whenever he tried prohibition cases his juries performed their duty and upheld the law. During his time in New York he sent 130 bootleggers to prison with sentences amounting to 50 years and \$150,000 in fines.

One of FitzHenry's most important criminal cases which garnered nation-wide attention was against the Colbeck Gang, commonly known as Egan's Rats. On May 26, 1923 nine members of the gang were involved with a mail robbery at Staunton, IL. On top of stealing a pouch of registered mail which contained a remittance from the Federal Reserve Bank of St. Louis, they also kidnapped the Postmaster of Staunton and his assistant. A member of the gang turned himself and the rest of the gang in out of fear of being "bumped off" by other gang members. After being incarcerated in the McLean County jail for some weeks before their trial, their case was finally scheduled to be heard by FitzHenry in Quincy, IL. The trial had been delayed by several attempts by the defendants to obtain a writ of error from the Court of Appeals which would have allowed them to be at large on bail pending the review of their case. This was not allowed and kept these men behind bars long enough to convict them. In November of 1924 FitzHenry found all nine defendants guilty and sentenced them to the maximum sentence

⁶ "FitzHenry's Plan Lauded," *The Daily Pantagraph*, March 10, 1929

⁷ "Speech Given Before the Peoria Bar Association, 1927." Personal Papers of Louis FitzHenry, Illinois State University Archives.

⁸ "Speech on work in New York, 1923." Personal papers of Louis FitzHenry, Illinois State University Archives.

allowed for robbing the U.S. Mail, 25 years each, to be served at Leavenworth Federal Penitentiary in Kansas. FitzHenry was quoted to have said that this crime was one of the most “dastardly I’ve ever known of, except, of course, crimes involving human slaughter. Fortunately, there was none of that in this offense. These defendants are entitled to get all the law provides.”⁹ With the conviction of these men FitzHenry had successfully aided in the breakup of the gang.

FitzHenry was recognized as a fair and honest judge and a consistently honorable man. He was also especially considerate of the young lawyer who was appearing in his court for the first time. He was quoted to have said that he tried never to forget that he was “once a practicing attorney” himself.¹⁰ For his distinguished services as a jurist, Illinois Wesleyan University also conferred a Doctor of Laws degree on FitzHenry in 1926.

He was well respected and firmly held up the 18th Amendment and the U.S. Constitution during his time as judge. He was never intimidated by the unsavory criminals who were tried and usually convicted in his courtroom. With this reputation and his long and successful court record he was appointed by President Franklin D. Roosevelt to become a judge of the U.S. Circuit Court of Appeals for the 17th District on October 3, 1933. A dinner sponsored by the McLean County Bar Association was held in his honor at the Illinois Hotel in Bloomington a few weeks later. He would continue to serve in this capacity the rest of his life.

Judge Louis FitzHenry died just a few years after his appointment to the U.S. Court of Appeals on November 18, 1935. He died quietly at his home at 301 North Street in Normal. A simple and dignified funeral was held a few days after his death. Both the Chicago and Peoria Bar Associations also held memorial services in his honor. His good friend and former law partner, Lester Martin, stated that the death of Judge FitzHenry has “deprived us of the services of a public servant, who was a good citizen and a great jurist. He will be missed.”¹¹ He was buried in Evergreen Memorial Cemetery in Bloomington.

By: Candace Summers, 2008

⁹ Daniel Waugh. *Egan’s Rats: The Untold Story of the Prohibition-Era Gang that Ruled St. Louis.* Nashville: Cumberland House Publishing, 2007. 221

¹⁰ Lester Martin. “Louis FitzHenry,” presented before the Bloomington Bar Association on January 1936. McLean County Historical Society Archives.

¹¹ Lester Martin. “Louis FitzHenry,” presented before the Bloomington Bar Association on January 1936. McLean County Historical Society Archives.