



Life Story: Thomas Todd

An orphan who became a respected land title attorney, Chief Justice of the Kentucky Supreme Court, and the first Associate Supreme Court Justice appointed from west of the Appalachian Mountains.

Thomas Todd was born on January 23, 1765 in King and Queen County, Virginia. He was the second son and youngest child of Richard Todd, **high sheriff** of Pittsylvania County, and Elizabeth Richards Todd. The family was wealthy thanks to a sizable **inheritance** from Captain Thomas William Todd I, a family member who acquired thousands of acres of land in Virginia. Before Thomas turned two, his father died. As was customary at that time, Richard Todd left everything to his eldest son, William, and, after paying off debts, there was very little for his wife. Forced to make it on her own, Elizabeth Todd and Thomas moved to Manchester, where she ran a boarding house and saved money for his education. At age eleven, however, Thomas became an orphan when his mother died. He was left in the care of a family friend who ensured that Thomas received a good education.

At age sixteen, Thomas joined the Continental Army as a substitute for another **draftee**. His six months of service in the army allowed him to earn enough money to return to his studies at Liberty Hall (now called Washington and Lee University). In 1783, a well-respected lawyer and legislator, Harry Innes, a cousin to Thomas' mother, invited Thomas to apprentice with him in law after Thomas completed his undergraduate studies. In exchange for room and board, Thomas also tutored Innes's daughters. Innes was a strong supporter of statehood for Kentucky and his activism helped Thomas develop an understanding of politics. In 1784, Innes moved his family, including Thomas, across the Appalachian Mountains to Danville, Virginia, which would soon become part of the state of Kentucky. While Innes chaired a convention established to petition for statehood for Kentucky, Thomas served as the secretary-clerk.

After a few years of **clerking** under Innes, Thomas gained political and legal recognition. He passed the Virginia Bar in 1788 and opened his own law firm, which primarily focused on land and title claims. That same year, Thomas married Elizabeth Harris, with whom he would have five children. Migration westward of settlers hungry for land created many legal disputes over property and Thomas' firm had enough business that he was able to provide well for his family. When the Kentucky statehood movement became successful in 1792, Thomas became secretary of its new legislature and penned the first draft of Kentucky's constitution. As the state continued to develop its political system, Thomas was selected as the **chief clerk** to the Kentucky Supreme Court in 1799. Two years later, in 1801, the Kentucky legislature created a new judgeship desiring to add a fresh perspective to the bench. As a result, Thomas was selected as the fourth Kentucky Supreme Court Justice and moved his family to Frankfort, the state capitol. Five years later he became the Chief Justice of the Commonwealth of Kentucky.

As more settlers migrated westward, Congress amended the Judiciary Act of 1789 in 1807 to add a

seventh federal judicial district comprising Tennessee, Kentucky, and Ohio. To help preside over the new circuit, Congress also authorized the addition of a seventh Supreme Court Justice. President Thomas Jefferson asked Congressional representatives from Tennessee, Kentucky, and Ohio whom they believed should represent their region on the Supreme Court. They almost unanimously recommended Thomas Todd. Breaking with tradition, Jefferson did not meet with Thomas before announcing his nomination for the newly created seat on February 28, 1807. The Senate confirmed him by voice vote less than a week later. Thomas became the first Supreme Court Justice to represent the seventh circuit and is considered the first “western” Justice because he lived west of the Appalachian Mountains. As part of his responsibilities, he **rode circuit** through that region serving as a circuit court judge on local cases. The people in his circuit proudly viewed him as another representative from their region to the federal government.

Thomas served nineteen terms on the Court, missing five sessions due to inclement weather that prevented travel from Kentucky to Washington, DC, illness, and family matters. Of the 600 opinions issued during his tenure, he authored fourteen: eleven majority, two concurring, and one dissenting. Of his majority opinions, ten resolved land or **survey** disputes. None of his opinions involved a constitutional question; however, his one non-land opinion was his last and involved a procedural ruling still currently relevant. In *Riggs v. Tayloe* (1824), the Court clarified that whenever possible original documents must be submitted as evidence. If the original is not attainable, secondary documents will be admitted. While many have overlooked Thomas’ contributions to the Court because of his frequent absences, his colleagues considered him an asset to the bench. Thomas not only steadfastly supported Chief Justice John Marshall’s goal of strengthening the federal government and judiciary, but also acted as a political advisor to his benchmates lending his knowledge of western governments and citizens. This regional expertise helped to create a connection to the newer western states and helped earn their support to recognize the legal authority of the Supreme Court.

Thomas’ adult life was not without its struggles. His wife Elizabeth passed away in 1811, leading to one of his five Court term absences. The following year, Thomas courted Lucy Payne Washington, First Lady Dolley Madison’s sister. Their wedding was the first to be held at the President’s Mansion, modernly known as the White House. Thomas and Lucy had three children together, bringing his total number of children to eight. Like his ancestor, Thomas added thousands of acres of land to his estate throughout his life. By 1820 he acquired twenty-six enslaved men and women, who worked on the estate. In addition to fully supporting his family, his wealth allowed Thomas to invest in the state that he helped to create. He was a founding member of the Kentucky River Company which promoted the navigation of Kentucky’s waterways and a supporter of the Kentucky Turnpike, one of the first public highways in the **west**. A Kentucky citizen until his death on February 7, 1826, at age sixty-one, Thomas never stopped loving his adopted home state. Associate Justice Thomas Todd was known for his unwavering support of the U.S. Constitution and good judgment.

Vocabulary

- **High Sheriff:** represents the Sovereign (King of England) in the colonies in upholding all matters relating to the judiciary and maintaining law and order.
- **Inheritance:** assets such as money or property that a person often leaves their family members.
- **Draftee:** a person who is involuntarily enlisted in military service.
- **Apprentice:** a paid job where the employee gains valuable experiences through on the job training and mentoring from an experienced professional.
- **Petition:** a formal written request.
- **Clerking:** a job that is responsible for maintaining records, research, and writing.
- **Chief Clerk:** maintains and oversees the records of the court.
- **Precedent:** an event or action that is an example or guide for similar events that happened after.
- **West:** Until the Louisiana Purchase in 1803, the west meant land west of the Appalachian Mountains but east of the Mississippi River making states such as Kentucky and Illinois the most western in the United States.

Discussion Questions

1. What can be learned from Thomas' life about overcoming adversity?
2. How did Thomas's life experiences prepare him for his role on the Supreme Court?
3. Why did Congress and the President want to include a justice from the "west" on the Supreme Court?
4. What do you believe to be Thomas Todd's legacy on the Supreme Court?

Extension Activity

Consider how geography played a role in Justice Thomas Todd's selection for the Supreme Court of the United States. Should geography still play a role in choosing Supreme Court Justices? In other words, should justices be selected from the circuit they will oversee on the Court? What are the differences between circuit assignments today and in Washington's time? Consider using the Circuit Riding resource for additional information.

Special thanks to law professor Thomas C. Mackey and history professor Andrea Sutherland for their review, feedback, and additional information.