

Joseph Philips

1818-1822

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Joseph Philips was born on October 6, 1784 in Kentucky, the fourth of nine children. His father Philip Philips speculated in land in Tennessee and co-owned nearly 7,000 acres, principally in what became Rutherford County, Tennessee.¹ Joseph Philips had a classical and legal education and was licensed to practice law in Tennessee on July 3, 1809.² He practiced law in the county seat of Jefferson until 1812, handling debt collection cases.

When the War of 1812 broke out, Philips joined the war effort. In December 1812, he arrived at Fort Massac as Captain of the new Twenty-fourth Regiment of Infantry, recruited from Tennessee and Kentucky. Soon in command of Fort Massac, Philips was unprepared for the large number of men to be trained for service in the War of 1812. He complained to the Secretary of War “of the insufficiency of the quarters” and that the troops lacked clothing, equipment, and supplies. In spring of 1813, after the twenty-fourth regiment received orders to move to Ohio, Philips remained at Fort Massac in command of a detachment of the Second Regiment of Artillery. A year later, the War Department ordered Fort Massac evacuated and the troops transferred to St. Louis.³

Moving to Kaskaskia, Captain Philips gained the reputation of “a dignified and pleasant gentleman,” wrote John M. Scott, “and as a man of the highest standing as a citizen.” In 1816, Philips succeeded Nathaniel Pope as secretary of the Illinois Territory, holding the office for two years.⁴ During this time, he issued a power of attorney to his brother-in-law, Robert Purdy, to handle his affairs relating to the estate of his father Philip Philips.⁵

During the October 1818 organizing session of the Illinois General Assembly, Joseph Philips received thirty-four of forty-one legislative ballots to become the state's first Chief Justice of the Illinois Supreme Court. He and the three associate justices assumed office on December 3, 1818, the date President Monroe signed the act admitting Illinois as the twenty-first state in the Union.⁶

Philips was also responsible for presiding at the trial level in the Third Judicial Circuit, initially comprised of four counties (Monroe, Randolph, Jackson, and Union) along the Mississippi River. In 1821, as the legislature created more counties, the third circuit enlarged with Jefferson, Fayette, Washington, and Bond Counties. At the first term of the Supreme Court in July 1819, the court heard no arguments in ten pending appeals to the General Court, the highest court of appeal in the Territory of Illinois. The justices presumably spent their time organizing the court and creating a set of rules.

In the December 1819 term, the court handled twenty-six cases on the docket: ten cases carried over from the Territory of Illinois and sixteen cases new to the Supreme Court. Of the ten cases from the Territorial court, three were continued, three were dismissed, two were abated, and two were reversed and remanded to the lower court. Of the sixteen new cases, two were reversed and remanded, two were affirmed, three were dismissed, two were abated, and seven were continued to the next term. Only five of cases were reported in the Illinois Reports.⁷

The caseload at the Supreme Court continued to grow. The Court handled thirty-seven cases in the July 1820 term—the last at Kaskaskia—and at least forty-four cases in the December 1820 term—the first at the new capital of Vandalia.⁸ John M. Palmer described Philips as “a lawyer of fine intellectual endowments.”⁹ There were only

seventeen reported cases during his tenure as Chief Justice.¹⁰ Since all opinions at that time were written by “The Court,” published records indicated none of his individual opinions. Decades later, Scott noted that “a very large per cent of the opinions of the Court during the time of Chief Justice Phillips are still recognized as sound law and very few of them have ever been overruled. Most of them are models of terse and accurate statement. No doubt Chief Justice Phillips wrote his full share of the opinions of the Court delivered when he was chief justice and if so they are highly creditable to him as a lawyer and as a judge.”¹¹

The very first case on the Illinois Supreme Court docket was *Coleen and Claypool v. Figgins*. The case concerned the question of when the act creating the circuit court system in Illinois became valid. The Madison County Circuit Court issued a writ on March 31, 1819, but the act creating the circuit courts did not go into effect until April 1, 1819. In an opinion probably written by Chief Justice Philips, the Supreme Court reversed and remanded the case, declaring the writ to be void because the “clerk had no authority to issue the writ, and make it returnable to a court not in existence.”¹²

Confident that he would be elected the state’s second governor, the ambitious Philips resigned the office of Chief Justice in July 1822. A candidate of the state’s pro-slavery faction, he supported a constitutional amendment permitting the “complete extension” of slavery into Illinois. The four-candidate race included another pro-slavery Supreme Court Justice, Thomas C. Browne. The two slavery proponents polled 59 percent of the vote, but Philips came in a close second to Edward Coles, leader of the state’s anti-slavery movement. A former private secretary to U.S. President James

Madison, Governor Coles effectively ended the state's pro-slavery activity. Had he and Philips been the only candidates, Philips probably would have won the election.¹³

Near the time he lost the election for governor, Philips also lost his wife Elouise.¹⁴ Hurt from the death of his wife and “[w]ith feelings of disgust at the ingratitude of the people,” Philips decided to leave Illinois and return to his home state of Tennessee.¹⁵ Philips settled in Davidson County, where he married recently widowed Dorothy Drake Sumner in 1825.¹⁶ By 1830, the couple had moved to neighboring Rutherford County with their young children. The Philips family was intermarried with the prominent Childress family of Murfreesboro, Tennessee. John W. Childress married a daughter of Joseph and Dorothy Philips in 1851; Childress was the brother of Sarah Childress, who was the wife of President James K. Polk. A son of Joseph Philips married the daughter of Sarah Childress Polk's sister.¹⁷

Philips accumulated significant real estate south of Murfreesboro, built a home there in the 1830s, and purchased a number of slaves to work his farm. Philips never resumed the practice of law, instead concentrating on agrarian pursuits, but at various times, he served as an election judge, served on juries, acted as executor for his step-son's estate, and served as a court-appointed commissioner to set apart a widow's property.¹⁸ By 1850, Philips decided to retire from agriculture and transferred much of his land and twenty-three of his fifty-five slaves to his son, but his son died a few years later at the age of twenty-eight. A neighbor remembered that Philips “used to go down the road every day, rain or shine, in his fancy, four wheel surrey.”¹⁹

Joseph Philips died on July 26, 1857 and was buried in the City Cemetery in Murfreesboro, Tennessee. His estate was valued at \$40,000, and his son-in-law, John W.

Childress was named as the administrator.²⁰ “Had Judge Phillips continued on the bench of the Supreme Court of the State and eschewed politics,” observed Scott, “he would have builded for himself a reputation equal to that of anyone that ever occupied a seat in that high tribunal.”²¹

¹ “Joel Childress and Joseph Philips Families,” *Rutherford County [Tennessee] Historical Society Publication No. 9* (Summer 1977), 23.

² Court Minutes Book C (1808-1810), 3 July 1809, 142, Rutherford County Archives, Murfreesboro, Tennessee.

³ Norman W. Caldwell, “Fort Massac: Since 1805,” *Journal of the Illinois State Historical Society* 44 (1951), 56-59.

⁴ John M. Scott, *Supreme Court of Illinois, 1818, Its First Judges and Lawyers* (Bloomington, IL: John M. Scott, 1896), 63; Alexander Davidson and Bernard Stuvé, *A Complete History of Illinois From 1673 to 1873* (Springfield: Illinois Journal Co., 1874), 300; Newton Bateman and Paul Selby, eds., *Historical Encyclopedia of Illinois* (Chicago: Munsell, 1900), 203.

⁵ Joseph Philips to Robert Purdy, 24 September 1817, Rutherford County Deed Record M, 348-49, Rutherford County Office Building, Murfreesboro, Tennessee.

⁶ John M. Palmer, ed., *Bench and Bar of Illinois; Historical and Reminiscent* (Chicago: Lewis Pub. Co., 1899), 13; John Reynolds, *My Own Times, Embracing also the History of My Life* (1879, rpt. Ann Arbor, MI.: University Microfilms, 1968), 158.

⁷ Issue Docket Book, December 1819 term, 191-94, RS 901.002, Illinois State Archives, Springfield, Illinois. The five cases were *Coleen and Claypool v. Figgins*, 1 Ill. (1 Breese) 19 (1819); *Smith for use of Johnson v. Bridges*, 1 Ill. (1 Breese) 18 (1819); *Taylor v. Sprinkle*, 1 Ill. (1 Breese) 17 (1819); *Whiteside et al. v. People*, 1 Ill. (1 Breese) 21 (1819); and *Chipp斯 v. Yancey*, 1 Ill. (1 Breese) 19 (1819).

⁸ Issue Docket Book, July 1820 term, 197-204; December 1820 term, 205-13.

⁹ Palmer, 13.

¹⁰ Those cases are reported in 1 Ill. (1 Breese) 17-36.

¹¹ Scott, 65-66.

¹² *Coleen and Claypool v. Figgins*, 1 Ill. (1 Breese) 19 (1819)

¹³ N. Dwight Harris, *The History of Negro Servitude in Illinois and of the Slavery Agitation in that State, 1719-1864* (1904, rpt. Ann Arbor, MI: University Microfilms, 1968), 31; Pease, 74-76.

¹⁴ “Joel Childress and Joseph Philips Families,” 24; Carlton C. Sims, ed., *A History of Rutherford County* (Murfreesboro, TN: Carlton Sims, 1947), 75.

¹⁵ Davidson and Stuvé, 300; Bateman and Selby, 423.

¹⁶ Tennessee State Marriages, Davidson County, TN, 301, Tennessee State Library and Archives, Nashville, Tennessee.

¹⁷ “Joel Childress and Joseph Philips Families,” 35.

¹⁸ Rutherford County Minute Book X, 300; Rutherford County Minute Book Z, 11, 115, 410; Rutherford County Minute Book AA, 234; all in Rutherford County Archives, Murfreesboro, Tennessee.

¹⁹ “Joel Childress and Joseph Philips Families,” 25-6.

²⁰ Rutherford County Minute Book CC, 385; Rutherford County Record Book 19, pp. 78, 186; both in Rutherford County Archives, Murfreesboro, Tennessee.

²¹ Scott, 74; Theodore Calvin Pease, *The Story of Illinois* (1925, rpt. Chicago: University of Chicago Press, 1949), 264.